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DEPARTMENT OF THE INTERIOR

Office of the Secretary

2 CFR Part 1400

[Docket No. DOI–2015–0007; 167D0102DM / DS62400000 / DLSN00000.000000 / DX62401]

RIN 1090–AB12

Revision to Nonprocurement Suspension and Debarment Regulations

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: This rule revises the U.S. Department of the Interior (DOI) nonprocurement suspension and debarment regulations in order to enhance transparency of the existing process and to clarify the Department's procedures for resolving nonprocurement suspension and debarment actions.

DATES: This final rule is effective September 26, 2016.

FOR FURTHER INFORMATION CONTACT: David M. Sims, Debarment Program Director, Office of Acquisition and Property Management, Office of the Secretary, telephone (202) 513–0689; fax (202) 513–7645; or email *david_sims@ios.doi.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Regulatory Framework

On August 31, 2005, the Office of Management and Budget (OMB) issued Guidance for Government-wide suspension and debarment (nonprocurement), codified in part 180 of title 2 of the Code of Federal Regulations (70 FR 51862, August 31, 2005). The OMB Guidance required each agency to issue a brief rule that: (1) Adopted the guidance, giving it regulatory effect for that agency's activities; and (2) stated any agency-specific additions, clarifications, and exceptions to the Government-wide policies and procedures contained in the guidance. On June 18, 2007, DOI issued its regulation implementing the OMB Guidelines at 2 CFR part 1400 (72 FR 33383). Today's rule updates the DOI nonprocurement suspension and debarment regulation at Part 1400.

B. Purpose

The original DOI implementing rule does not specify which DOI organizational component or official will conduct fact-finding proceedings for nonprocurement actions. This amended rule explains that the DOI Debarment Program Director is the official who ordinarily conducts fact-finding proceedings, while permitting the Suspending and Debarring Official to refer the case to another component or office for a fact-finding proceeding. This rule does not change the circumstances under which fact-finding proceedings are available to respondents, nor the criteria and standards that apply in fact-finding proceedings. In addition, this rule clarifies that the nonprocurement suspension and debarment case procedures used by DOI are identical to those DOI uses for the procurement suspension and debarment actions pursuant to the Federal Acquisition Regulation at 48 CFR subpart 9.4. Specifically, this rule sets forth the nonprocurement suspension and debarment action practices and procedures used to find facts in actions where the Suspending and Debarring Official determines that there is a genuine dispute over facts material to the proposed debarment. This rule addresses how persons suspended or proposed for debarment may seek to resolve an action. This rule promotes transparency of DOI internal procedures for resolving suspension and debarment actions.

C. Exemption From Notice and Comment Requirements

The Administrative Procedure Act (APA) requires agencies to publish a notice of proposed rulemaking in the **Federal Register** and provide a period for public comment before issuing a final rule. 5 U.S.C. 553(b). The APA, however, exempts from the requirement of notice and comment "[r]ules of agency organization, procedure, or practice." 5 U.S.C. 553(b)(A).

This amended rule clarifies suspension and debarment findings; it does not alter the rights or interests of respondents in such proceedings. This rule also identifies existing suspension and debarment program roles and processes. Finally, this rule adds language that recognizes prior changes to, or adoption of, online Federal databases used to support award eligibility decisions. Accordingly, this rule is a rule of agency procedure, exempt from the notice and comment requirements of the APA.

D. Waiver of 30-Day Delay in Effective Date

The APA also generally requires a 30-day delay in the effective date of final rules after the date of their publication in the **Federal Register**. 5 U.S.C. 553(d). The 30-day delay may be waived if the agency determines there is good cause to do so because the 30-day delay is impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(d)(3).

There is good cause to waive the 30-day delay in the effective date of this rule, because the delay is unnecessary and contrary to the public interest. As noted above, this rule is procedural and informational, and does not affect the rights or interests of respondents in nonprocurement suspension and debarment actions for which fact-finding proceedings are available. Moreover, this rule clarifies that the procedures to resolve nonprocurement suspension and debarment actions are the same as the procedures DOI uses to resolve procurement suspension and debarment actions. In so doing, this rule will eliminate potential confusion. Thus, delaying its effective date for 30 days is unnecessary and contrary to the public interest.

II. Required Determinations

A. Regulatory Planning and Review (E.O. 12866 and 13563)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866, calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public, where these approaches are relevant, feasible, and consistent with regulatory objectives.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act [SBREFA] of 1996) (5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for "significant impact" and a threshold for a "substantial number of small entities." See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*). This clarification explains that the DOI applies the same procedures and fact-finding process for its nonprocurement and procurement suspension and debarment actions. This rule is merely a clarification of existing process. It makes no substantive change to the 2007 DOI rule, nor does it impose any new requirements on entities subject to a notice of suspension or proposed debarment.

C. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2)). This rule:

1. Does not have an annual effect on the economy of $100 million or more. This rule identifies program roles and clarifies that the DOI fact-finding process for nonprocurement suspension and debarment actions is the same as DOI's fact-finding process for procurement suspension and debarment actions. This rule is a technical clarification that does not alter existing procedures for resolving nonprocurement suspension and debarment actions.

2. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. As explained above, this rule is a technical rule issued to clarify that DOI's procedures for resolving nonprocurement suspension and debarment actions are identical to DOI's current procedures. This rule impacts only those persons suspended or proposed for debarment.

3. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This rule clarifies DOI's internal practices and procedures which furthers transparency.

D. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. This rule does not have a significant or unique effect on State, local, or tribal governments, or the private sector. This rule does not impose requirements on State, local, or tribal governments. This rule clarifies that the DOI fact-finding process for nonprocurement suspension and debarment actions is the same as DOI's fact-finding process for procurement suspension and debarment actions. This rule impacts only those persons suspended or proposed for debarment. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531, *et seq.*) is not required.

E. Takings (E.O. 12630)

Under the criteria in section 2 of E.O. 12630, this rule does not have significant takings implications. This rule is a technical rule revision that clarifies that the DOI fact-finding process for nonprocurement suspension and debarment actions is the same as DOI's fact-finding process for procurement suspension and debarment actions. This rule impacts only those persons suspended or proposed for debarment. This rule promotes process transparency of DOI internal suspension and debarment action resolution procedures. A takings implication assessment is not required.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. This rule is a technical rule revision that clarifies that the DOI fact-finding process for nonprocurement suspension and debarment actions is the same as DOI's fact-finding process for procurement suspension and debarment actions. This rule impacts only those persons suspended or proposed for debarment. A Federalism summary impact statement is not required.

G. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

1. Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

2. Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

H. Consultation With Indian Tribes (E.O. 13175)

Under the criteria in E.O. 13175, we have evaluated this rule and determined that it has no substantial direct effect on federally recognized Indian tribes. This rule is a technical rule revision that clarifies that the DOI fact-finding process for nonprocurement suspension and debarment actions is the same as DOI's fact-finding process for procurement suspension and debarment actions. This rule impacts only those persons suspended or proposed for debarment.

I. Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission under the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) is not required.

J. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*). This rule is categorically excluded from the requirement to prepare a detailed statement, because it qualifies as a regulation of an administrative nature within the meaning of 43 CFR 46.210(i).

K. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in E.O. 13211. A Statement of Energy Effects is not required.

L. Clarity of This Regulation

We are required by section 1(b)(12) of E.O. 12866 and section 3(b)(1)(B) of E.O. 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

1. Be logically organized;
2. Use the active voice to address readers directly;
3. Use common, everyday words and clear language rather than jargon;
4. Be divided into short sections and sentences; and
5. Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **FOR FURTHER INFORMATION CONTACT** section. To better help us revise this rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, and the sections where you feel lists or tables would be useful.

List of Subjects in 2 CFR Part 1400

Administrative practice and procedure, Debarment, Grant programs, Government contracts, Reporting and recordkeeping requirements, Suspension.

For the reasons set out in the preamble, we are amending part 1400, chapter XIV of subtitle B, title 2 of the Code of Federal Regulations as set forth below:

PART 1400—NONPROCUREMENT SUSPENSION AND DEBARMENT

■ 1. The authority citation for part 1400 is revised to read as follows:

Authority: Section 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); 5 U.S.C. 301; E.O. 12549 (3 CFR, 1986 Comp., p. 189); and E.O. 12689 (3 CFR, 1989 Comp., p. 235).

■ 2. Revise § 1400.10 to read as follows:

§ 1400.10 What does this part do?

This part provides procedures for the Department of the Interior nonprocurement suspension and debarment actions.

■ 3. Add subparts E, F, G, and H to read as follows:

Subpart E—System for Award Management Exclusions

Sec.

1400.526 Who at DOI places exclusions information into SAM?

Subpart F—General Principles Relating to Suspension and Debarment Actions

1400.600 How does a DOI debarment or suspension action begin?

1400.635 May DOI settle a debarment or suspension action?

Subpart G—Suspension

1400.751 What does the Suspending and Debarring Official consider in making a decision on whether to continue a suspension following notice issuance?

1400.752 When does a contested suspension action include a fact-finding proceeding?

1400.753 How is the fact-finding proceeding conducted?

1400.756 May a respondent request administrative review of the Suspending and Debarring Official's decision?

Subpart H—Debarment

1400.861 What procedures does the Suspending and Debarring Official follow to make a decision on whether to impose debarment following notice issuance?

1400.862 When does a contested debarment action include a fact-finding proceeding?

1400.863 How is the fact-finding proceeding conducted?

1400.876 May a respondent request administrative reconsideration of a decision?

1400.881 May a respondent seek award eligibility reinstatement at any time before the end of the period of debarment?

Subpart E—System for Award Management Exclusions

§ 1400.526 Who at DOI Places Exclusions Information into SAM?

The Office of Acquisition and Property Management (PAM) Debarment Program personnel enter information about persons suspended or debarred by DOI into the GSA Web-based System for Award Management (SAM) within 3 working days of the effective date of the action.

Subpart F—General Principles Relating to Suspension and Debarment Actions

§ 1400.600 How does a DOI suspension or debarment action begin?

(a) Federal officials, DOI award officials, employees, or other sources will forward information indicating the potential existence of a cause for suspension or debarment, as listed in 2 CFR 180.700 and 180.800, to:

(1) The DOI Office of Inspector General Administrative Remedies Division (OIG ARD); or

(2) The Suspending and Debarring Official.

(b) If forwarded to the OIG ARD, that office will conduct a review to determine if a recommendation for administrative action is warranted. If warranted, the OIG ARD will prepare and submit to the Suspending and Debarring Official an Action Referral Memorandum (ARM) with supporting documentation for the administrative record.

(c) OIG ARD will also identify potential matters for case development and conduct a review to determine if a recommendation for administrative action is warranted. If warranted, the OIG ARD will prepare and submit to the Suspending and Debarring Official an ARM with supporting documentation for the administrative record.

(d) The Suspending and Debarring Official will review the ARM to determine the adequacy of evidence to support and initiate:

(1) A suspension by taking the actions listed in 2 CFR 180.615 and 180.715; or

(2) A debarment by taking the actions listed in 2 CFR 180.615 and 2 CFR 180.805; and

(3) Notification of the respondent on how the respondent may contest the action.

§ 1400.635 May DOI settle a debarment or suspension action?

Under 2 CFR 180.635, the Suspending and Debarring Official may resolve a suspension or debarment action through an administrative agreement if it is in the best interest of the Government at any stage of proceedings, where the respondent agrees to appropriate terms. The specific effect of administrative agreements that incorporate terms regarding award eligibility will vary with the terms of the agreements. Where the Suspending and Debarring Official enters into an administrative agreement, PAM will notify the award officials by:

(a) Entering any appropriate information regarding an exclusion or the termination of an exclusion into the SAM; and

(b) Entering the agreement into the Federal Awardee Performance Integrity Information System (FAPIIS) or its successor system.

Subpart G—Suspension

§ 1400.751 What does the Suspending and Debarring Official consider in making a decision on whether to continue a suspension following notice issuance?

(a) In the event a respondent does not contest the suspension in writing within the time period provided at 2 CFR 180.715 through 180.725, the suspension will remain in place without further proceedings.

(b) Where a suspension is contested, the Suspending and Debarring Official follows the provisions at 2 CFR 180.730

through 180.755 in reaching a decision on whether to continue or terminate the suspension.

(c) The contested suspension proceeding will include an oral Presentation of Matters in Opposition (PMIO), where one is requested by a respondent. The PMIO is conducted in an informal business meeting format and electronically recorded for inclusion in the administrative record.

(d) Where fact-finding occurs as part of the suspension proceeding, after receiving the findings of fact and the hearing record from the fact-finding official, the Suspending and Debarring Official completes suspension proceedings, including a PMIO if one has been requested and did not occur before the fact-finding proceeding. Following completion of suspension proceedings, the Suspending and Debarring Official issues a written decision under the provisions of 2 CFR 180.750 and 180.755.

§ 1400.752 When does a contested suspension action include a fact-finding proceeding?

(a) Fact-finding to resolve genuine disputes over facts material to the suspension occurs where the conditions listed in 2 CFR 180.735(b) are satisfied.

(b) The fact-finding official for DOI suspension proceedings is the DOI Debarment Program Director, unless the Suspending and Debarring Official designates another DOI official to serve as the fact-finding official.

§ 1400.753 How is the fact-finding proceeding conducted?

(a) The fact-finding proceeding is conducted in accordance with PAM's suspension and debarment program fact-finding procedures, a copy of which is provided to the respondent.

(b) The fact-finding proceeding is undertaken in accordance with 2 CFR 180.745.

(1) The reporters' fees and other direct costs associated with the fact-finding proceeding are borne by the bureau(s) or office(s) initiating the suspension action, except in the case of actions initiated by the OIG ARD.

(2) For actions initiated by the OIG ARD, the costs are borne by bureau(s) and/or office(s) out of which the matter arose.

(3) A transcribed record transcript of the fact-finding proceedings is available to the respondent as provided at 2 CFR 180.745(b).

(c) The fact-finding official provides findings of fact and the hearing record to the Suspending and Debarring Official. The fact-finding official files the original copy of the transcribed record of the fact-finding proceedings transcript with the administrative record.

§ 1400.756 May a respondent request administrative review of the Suspending and Debarring Official's decision?

A respondent may seek administrative reconsideration of the Suspending and Debarring Official's decision by following the procedures in this section.

(a) Within 30 days of receiving the decision, the respondent may ask the Suspending and Debarring Official to reconsider the decision for clear and material errors of fact or law that would change the outcome of the matter. The respondent bears the burden of demonstrating the existence of the asserted clear and material errors of fact or law.

(b) A respondent's request for reconsideration must be submitted in writing to the Suspending and Debarring Official and include:

(1) The specific findings of fact and conclusions of law believed to be in error; and

(2) The reasons or legal basis for the respondent's position.

(c) The Suspending and Debarring Official may, in the exercise of discretion, stay the suspension pending reconsideration. The Suspending and Debarring Official will:

(1) Notify the respondent in writing of the decision on whether to reconsider the decision; and

(2) If reconsideration occurs, notify the respondent in writing of the results of the reconsideration.

Subpart H—Debarment

§ 1400.861 What procedures does the Suspending and Debarring Official follow to make a decision on whether to impose debarment following notice issuance?

(a) In the event a respondent does not contest the proposed debarment in writing within the time period provided at 2 CFR 180.815 through 180.825, the debarment as proposed in the notice will be imposed without further proceedings.

(b) Where a proposed debarment is contested, the Suspending and Debarring Official will follow the provisions at 2 CFR 180.830 through 180.870 in reaching a decision on whether to impose a period of debarment.

(c) The administrative record will include an oral PMIO, in those actions where the respondent requests one. The PMIO is conducted in an informal business meeting format and electronically recorded for the record.

(d) Where fact-finding occurs as part of the proposed debarment proceeding, after receiving the findings of fact and the hearing record from the fact-finding official, the Suspending and Debarring Official completes debarment proceedings, including a PMIO if one has been requested and did not occur before the fact-finding proceeding. Following completion of proposed debarment proceedings, the Suspending and Debarring Official issues a written decision under the provisions of 2 CFR 180.870.

§ 1400.862 When does a contested proposed debarment action include a fact-finding proceeding?

Fact-finding to resolve genuine disputes over facts material to the proposed debarment occurs where the conditions at 2 CFR 180.830(b) are satisfied.

§ 1400.863 How is the fact-finding proceeding conducted?

(a) The fact-finding proceeding is conducted in accordance with PAM's suspension and debarment program fact-finding procedures, a copy of which is provided to the respondent.

(b) The fact-finding official for DOI debarment proceedings is the DOI Debarment Program Director, unless the Suspending and Debarring Official designates another DOI official to serve as the fact-finding official.

(c) The fact-finding proceeding is undertaken in accordance with 2 CFR 180.840.

(1) The reporters' fees and other direct costs associated with the fact-finding proceeding are borne by the bureau(s) or office(s) initiating the debarment action, except in the case of actions initiated by the OIG.

(2) For actions initiated by the OIG, the costs are borne by the bureau(s) and/or office(s) out of which the matter arose.

(3) A transcribed record of the fact-finding proceedings is available to the respondent as provided at 2 CFR 180.840(b).

(d) The fact-finding official provides written findings of fact and the hearing record to the Suspending and Debarring Official. The fact-finding official files the original copy of the transcribed record of the fact-finding proceedings with the administrative record.

§ 1400.876 May a respondent request administrative reconsideration of a decision?

A respondent may request the Suspending and Debarring Official to review a decision under this part as follows:

(a) Within 30 days of receiving the decision, the respondent may ask the Suspending and Debarring Official to reconsider the decision based on clear and material error(s) of fact or conclusion(s) of law that would change the outcome of the matter. The respondent bears the burden of demonstrating the existence of the asserted clear and material error(s) of fact or conclusion(s) of law.

(b) The respondent's request for reconsideration must be submitted in writing to the Suspending and Debarring Official and include:

(1) The specific finding(s) of fact and conclusion(s) of law the respondent believes are in error; and

(2) The reasons or legal bases for the respondent's position.

(c) The Suspending and Debarring Official may in the exercise of discretion stay the debarment pending reconsideration. The Suspending and Debarring Official will review the request for reconsideration and:

(1) Notify the respondent in writing whether the Suspending and Debarring Official will reconsider the decision; and

(2) If reconsideration occurs, notify the respondent in writing of the results of the reconsideration.

§ 1400.881 May a respondent seek award eligibility reinstatement at any time before the end of the period of debarment?

In addition to a petition for reconsideration based on a clear error of material fact or law, a respondent may, at any time following imposition of debarment, request the Suspending and Debarring Official to reduce or terminate the period of debarment based upon the factors under the provisions of 2 CFR 180.880.

Subpart I—Definitions

■ 4. Add §§ 1400.1011 through 1400.1014 to subpart I to read as follows:

§ 1400.1011 The DOI Debarment Program Director.

The Debarment Program Director is the individual in PAM who advises the Suspending and Debarring Official on DOI suspension and debarment practices and procedures, manages the suspension and debarment process, and acts as the DOI suspension and debarment program fact-finding official.

§ 1400.1012 The OIG Administrative Remedies Division (ARD).

The OIG ARD prepares and forwards suspension and/or debarment action referral memoranda to the Suspending and Debarring Official and may provide additional assistance, in the course of action proceedings.

§ 1400.1013 The administrative record.

The administrative record for DOI suspension and debarment actions consists of the initiating action referral memorandum and its attached documents; the action notice; contested action scheduling correspondence; written information, arguments and supporting documents submitted by a respondent in opposition to the action notice; written information, arguments and supporting documents submitted by the OIG ARD in response to information provided by a respondent; the electronic recording of the PMIO, where a PMIO is held as part of the proceeding; where fact-finding is conducted, the transcribed record of the fact-finding proceedings, and findings of fact; and the final written determination by the Suspending and Debarring Official on the action; or, alternatively, the administrative agreement endorsed by the respondent and the Suspending and Debarring Official that resolves an action.

§ 1400.1014 Respondent.

Respondent means a person who is the subject of a DOI suspension or proposed debarment action.

Dated: September 16, 2016.

Kristen J. Sarri,

Principal Deputy Assistant Secretary—Policy, Management and Budget.

[FR Doc. 2016–23102 Filed 9–23–16; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–3992; Directorate Identifier 2015–NM–075–AD; Amendment 39–18653; AD 2016–19–04]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 787–8 airplanes. This AD was prompted by a report of uncommanded movement by a captain's seat during a landing rollout due to a failure in the seat horizontal actuator. This AD requires repetitive tests of the captain and first officer seat assemblies for proper operation, and corrective action if necessary. This AD also requires installation of new captain and first officer seat assemblies, which terminates the repetitive tests. We are issuing this AD to prevent a seat actuator clutch failure, which could result in a loss of seat locking and uncommanded motion of the captain's or first officer's seat; uncommanded seat movement could result in reduced controllability of the airplane.

DATES: This AD is effective October 31, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 31, 2016.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone: 206–544–5000, extension 1; fax: 206–766–5680; Internet: *https://www.myboeingfleet.com*. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3992.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3992; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Brandon Lucero, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6572; fax: 425–917–6590; email: *Brandon.Lucero@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 787–8 airplanes. The NPRM published in the **Federal Register** on March 7, 2016 (81 FR 11687) ("the

NPRM"). The NPRM was prompted by a report of uncommanded movement by a captain's seat during a landing rollout due to a failure in the seat horizontal actuator. The NPRM proposed to require repetitive tests of the captain and first officer seat assemblies for proper operation, and corrective action if necessary. The NPRM also proposed to require installation of new captain and first officer seat assemblies, which would terminate the repetitive tests. We are issuing this AD to prevent a seat actuator clutch failure, which could result in a loss of seat locking and uncommanded motion of the captain's or first officer's seat; uncommanded seat movement could result in reduced controllability of the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Remove Service Bulletin Issue Number and Date

Boeing requested that we revise the NPRM to not specify the Service Bulletin issue number and date, or alternatively to include "or subsequent" when referencing Boeing Alert Service Bulletin B787–81205–SB250054–00, Issue 001, dated December 19, 2014.

Boeing commented that the seat supplier is currently working on a related nuisance issue of intermittent electrical operation of the seat-powered adjustment system. Boeing stated that the resolution to this issue may result in changes to the part numbers of the actuators and seat assemblies, and revision to the service bulletin issue number and date.

We do not agree with the commenter's request to remove the issue number and date of the service information. We cannot allow use of "later-approved revisions" in an AD when referring to the service document. Doing so violates Office of the Federal Register (OFR) regulations for approval of materials "incorporated by reference," as specified in 1 CFR 51.1(f). If for any reason the issue and date of the service bulletin should change, the FAA may consider issuing an alternative method of compliance (AMOC) to allow use of a later revision. We have not changed this AD in this regard.

Request To Remove the Replacement Seat Part Numbers

Boeing requested that we remove the replacement seat part numbers to be installed as terminating action from this AD, and instead specify that seats be replaced with part numbers "as specified in Boeing Alert Service Bulletin B787–81205–SB250054–00."

Boeing commented that the seat supplier is currently working on a related nuisance issue of intermittent electrical operation of the seat-powered adjustment system. The resolution to this issue may result in change to the part numbers of the actuators and seat assemblies.

We partially agree with the commenter's request. We have changed paragraph (h) of this AD to remove the part numbers of the actuators and seat assemblies from this AD and to include the part numbers specified in Boeing Alert Service Bulletin B787–81205–SB250054–00. However, we have included the revision level and date of the service information for the reasons noted in the previous comment response. The FAA may consider issuing an AMOC to allow use of a later revision of the service information.

Request To Allow Credit for Prior Accomplishment of Service Bulletins

United Airlines requested that the AD allow credit for prior accomplishment of Boeing and Ipeco service information.

We already provide credit in paragraph (f) of this AD for prior accomplishment of Boeing Alert Service Bulletin B787–81205–SB250054–00, Issue 001, dated December 19, 2014, if accomplished before the effective date of this AD. In addition, credit is not necessary for using the Ipeco service information referenced in Boeing Alert Service Bulletin B787–81205–SB250054–00, Issue 001, dated December 19, 2014, because this AD does not specifically require using Ipeco service information. No change to this AD is necessary.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin B787–81205–SB250054–00, Issue 001, dated December 19, 2014. This service information provides procedures for installation of new captain and first officer seat assemblies, a test of the captain and first officer seat assemblies, and corrective action if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 18 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Operational test	2 work-hours × $85 per hour = $170 per test cycle.	$0	$170 per test cycle	$3,060 per test cycle.
Seat assembly installation	3 work-hours × $85 per hour = $255 to replace two seats.	$15,141 per seat × 2 seats = $30,282.	$30,537 to replace two seats.	$549,666.

We estimate the following costs to do any necessary corrective actions that would be required based on the results of the operational tests. We have no way of determining the number of aircraft that might need these actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of captain seat vertical actuator	2 work-hours × $85 per hour = $170	$7,500	$7,670
Replacement of captain seat horizontal actuator	2 work-hours × $85 per hour = $170	7,500	7,670
Replacement of first officer seat vertical actuator	2 work-hours × $85 per hour = $170	7,500	7,670
Replacement of first officer seat horizontal actuator	2 work-hours × $85 per hour = $170	7,500	7,670

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2016–19–04 The Boeing Company: Amendment 39–18653; Docket No. FAA–2016–3992; Directorate Identifier 2015–NM–075–AD.

(a) Effective Date

This AD is effective October 31, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 787–8 airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin B787–81205–SB250054–00, Issue 001, dated December 19, 2014.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/furnishings.

(e) Unsafe Condition

This AD was prompted by a report of uncommanded movement by a captain's seat during a landing rollout due to a failure in the seat horizontal actuator. We are issuing this AD to prevent a seat actuator clutch failure, which could result in a loss of seat locking and uncommanded motion of the captain's or first officer's seat; uncommanded seat motion could result in reduced controllability of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Repetitive Tests of Captain and First Officer Seat Assembly Operation

Within 1,000 flight hours after the effective date of this AD, test the operation of the captain and first officer seat assemblies and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB250054–00, Issue 001, dated December 19, 2014. Do all applicable corrective actions before further flight. Repeat the operational test thereafter at intervals not to exceed 1,000 flight hours until the installation required by paragraph (h) of this AD is done.

(h) New Seat Installation

Within 72 months after the effective date of this AD, do the actions specified in paragraphs (h)(1) and (h)(2) of this AD. Installing the seat specified in paragraph (h)(1) or (h)(2) of this AD, as applicable, is terminating action for the repetitive operational tests required by paragraph (g) of this AD for that seat only.

(1) Install a new captain seat assembly, in accordance with paragraph 2.F., "Part 3: Terminating Action: Captain Seat Assembly Replacement," of the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB250054–00, Issue 001, dated December 19, 2014.

(2) Install a new first officer seat assembly, in accordance with paragraph 2.I., "Part 6: Terminating Action: First Officer Seat Assembly Replacement," of the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB250054–00, Issue 001, dated December 19, 2014.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane and the approval must specifically refer to this AD.

(4) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of

paragraphs (i)(4)(i) and (i)(4)(ii) of this AD, apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(j) Related Information

For more information about this AD, contact Brandon Lucero, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6572; fax: 425–917–6590; email: *Brandon.Lucero@faa.gov.*

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Boeing Alert Service Bulletin B787–81205–SB250054–00, Issue 001, dated December 19, 2014.

(ii) Reserved.

(3) For The Boeing Company service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone: 206–544–5000, extension 1; fax: 206–766–5680; Internet: *https://www.myboeingfleet.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on September 6, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–22187 Filed 9–23–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–5039; Directorate Identifier 2013–NM–148–AD; Amendment 39–18659; AD 2016–19–10]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2000–10–18 for certain Airbus Model A300 series airplanes; Model A300 B4–600, B4–600R, F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Model A310 series airplanes. AD 2000–10–18 required repetitive inspections to detect cracks in the lower spar of the engine pylons between ribs 6 and 7, and repair if necessary. This new AD reduces the compliance times for the initial inspection and the repetitive intervals. This AD was prompted by the determination that the compliance times for the initial inspection and the repetitive intervals must be reduced to allow timely detection of cracks in the engine pylon's lower spar between ribs 6 and 7. We are issuing this AD to detect and correct fatigue cracking, which could result in reduced structural integrity of the engine pylon's lower spar, and possible separation of the engine from the airplane.

DATES: This AD is effective October 31, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 31, 2016.

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–5039.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–5039; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2000–10–18, Amendment 39–11742 (65 FR 34055, May 26, 2000) ("AD 2000–10–18"). AD 2000–10–18 applied to certain Airbus Model A300 series airplanes; Model A300 B4–600, B4–600R, F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Model A310 series airplanes. The NPRM published in the **Federal Register** on April 5, 2016 (81 FR 19505) ("the NPRM"). The NPRM was prompted by a determination that the compliance times for the initial inspection and the repetitive intervals must be reduced to allow timely detection of cracks in the engine pylon's lower spar between ribs 6 and 7. The NPRM proposed to continue to require repetitive inspections to detect cracks in the lower spar of the engine pylons between ribs 6 and 7, and repair if necessary. The NPRM also proposed to reduce the compliance times for the initial inspection and the repetitive intervals. We are issuing this AD to detect and correct fatigue cracking, which could result in reduced structural integrity of the engine pylon's lower spar, and possible separation of the engine from the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2013–0167, dated July 26, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition. The MCAI states:

> Cracks were found between ribs 6 and 7 in the lower spar of engine pylons on A310, A300 and A300–600 aeroplanes. To prevent crack initiation, a first inspection programme of this area was rendered mandatory by DGAC [Direction Générale de l'Aviation Civile] France AD 93–228–154 (later revised, currently at Revision 3) [which corresponds to certain actions in FAA AD 2000–10–18] for A300 and A300–600 aeroplanes.
>
> At a later date and due to new findings, a specific inspection programme for A310 aeroplanes was rendered mandatory by DGAC France AD 1999–239–287(B) [which corresponds to certain other actions in FAA AD 2000–10–18]. That [French] AD was later superseded by EASA AD 2008–0001, which introduced new thresholds and intervals in the frame of the A310 extended service goal (ESG) exercise.
>
> Since DGAC France AD 1993–228–154(B)R3 and EASA AD 2008–0001 were issued, a fleet survey and updated Fatigue and Damage Tolerance analyses have been performed in order to substantiate the second ESG for A300–600, called ESG2 exercise. The results of these analyses have shown that the inspection threshold and interval must be reduced to allow timely detection of cracks in the engine pylon lower spar between ribs 6 and 7.
>
> For the reasons described above, this new [EASA] AD retains the requirements of DGAC France AD 1993–228–154(B)R3 and EASA AD 2008–0001, which are superseded, and requires accomplishment of the [eddy current or liquid penetrant] inspections [for cracking] and, depending on findings, [related investigative and] corrective actions [repairs], within the new thresholds and intervals specified in Airbus Service Bulletin (SB) A300–54–0073 Revision 03 [dated October 11, 2012] or SB A310–54–2017 Revision 06 [dated October 3, 2012] or SB A300–54–6014 Revision 07 [dated September 5, 2012].

Related investigative actions include eddy current or liquid penetrant inspections for cracking of areas with removed protection. The unsafe condition is cracking in the lower spar of the engine pylons between ribs 6 and 7, which could result in reduced structural integrity of the engine pylon's lower spar, and possible separation of the engine from the airplane. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2016–5039.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Revise Applicability

United Parcel Service (UPS) requested that we remove Model A300 F4–622R airplanes from the proposed applicability. UPS stated that the NPRM would apply to all Model A300 airplanes except those that have Airbus Modification 10599 incorporated in production. UPS explained that Airbus Modification 10559 was embodied on airplane manufacturer serial number (MSN) 723 and all subsequent airplane serial numbers; and that the first Model A300 F4–622R airplane with this modification embodied was MSN 805.

We infer that UPS made a typographical error in citing the Airbus Modification number and intended to reference Airbus Modification 10149. We agree with the commenter's request to remove Model A300 F4–622R airplanes from the applicability. Airbus has verified that all Model A300 F4–622R airplanes are post-Airbus Modification 10149 and that operators do not need to accomplish the inspections specified in Airbus Service Bulletin A300–54–6014, Revision 07, dated September 5, 2012, on those airplanes. As specified in paragraph (c) of this AD, this AD does not affect airplanes on which Airbus Modification 10149 has been incorporated in production. We have removed Model A300 F4–622R airplanes from paragraph (c)(4) of this AD. This change has been coordinated with EASA.

Requests To Revise Paragraphs (g), (h), and (i) of the Proposed AD

UPS requested that we revise paragraphs (g), (h), and (i) of the proposed AD, which identify inspections, corrective actions, and exceptions for both pre-repair and post-repair modification configurations. UPS stated that these paragraphs contain information in long, complex sentences with cross references to other paragraphs in the proposed AD. UPS explained that there is potential for confusion of the ruling requirements and opportunities for compliance errors. UPS provided suggestions for revising certain paragraphs of the proposed AD.

We do not agree with the commenter's request. We recognize that the actions specified in the service information and this AD are complex. However, this AD uses standard terminology that is legally enforceable. UPS's suggested revisions included doing all repairs using a method approved by the FAA, EASA, or Airbus's EASA Design Organization Approval. This suggestion would require operators to obtain a method of compliance, even though the service information does provide instructions for doing certain repairs. Also, UPS suggested we add regulatory material in a note, which is not legally enforceable. We have not changed this AD in this regard.

Request To Define Average Flight Time (AFT) Calculations

UPS requested that we include a paragraph to define how AFT is calculated. UPS explained that paragraph (g) of the proposed AD has repetitive inspection requirements that use an interval defined in the service information that is dependent on airplane AFT methodology, but that the NPRM does not define parameters for how and when the AFT is determined. UPS submitted proposed language for calculating AFTs.

In regards to the AFT definition, we have determined that, for the reasons stated by the commenter, this AD should define AFT calculations. We have added paragraph (j) to this AD accordingly and redesignated subsequent paragraphs.

Request To Approve Alternative Methods of Compliance (AMOCs)

UPS requested that we revise paragraph (k) of the proposed AD to specify that AMOCs approved previously for AD 2000–10–18 are approved as AMOCs for the corresponding provisions of this AD.

We agree with the commenter's request. We have revised paragraph (l) of this AD (referred to as paragraph (k) in the proposed AD) to specify that AMOCs approved previously for AD 2000–10–18 are approved as AMOCs for the corresponding provisions of this AD.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service bulletins.

- Airbus Service Bulletin A300–54–0073, Revision 03, dated October 11, 2012 (for Model A300 series airplanes).

- Airbus Service Bulletin A300–54–6014, Revision 07, dated September 5, 2012 (for Model A300–600 series airplanes).
- Airbus Service Bulletin A310–54–2017, Revision 06, dated October 3, 2012 (for Model A310 series airplanes).

This service information describes procedures for inspecting for cracking of the engine pylon's lower spar between ribs 6 and 7, and related investigative actions if cracking is found. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 156 airplanes of U.S. registry.

We also estimate that it would take about 6 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $79,560, or $510 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD. We have no way of determining the number of aircraft that might need these actions.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2000–10–18, Amendment 39–11742 (65 FR 34055, May 26, 2000), and adding the following new AD:

2016–19–10 Airbus: Amendment 39–18659; Docket No. FAA–2016–5039; Directorate Identifier 2013–NM–148–AD.

(a) Effective Date

This AD is effective October 31, 2016.

(b) Affected ADs

This AD replaces AD 2000–10–18, Amendment 39–11742 (65 FR 34055, May 26, 2000) ("AD 2000–10–18").

(c) Applicability

This AD applies to the Airbus airplanes identified in paragraphs (c)(1) through (c)(6) of this AD, certificated in any category, except airplanes on which Airbus Modification 10149 has been incorporated in production.

(1) Airbus Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes.

(2) Airbus Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes.

(3) Airbus Model A300 B4–605R and B4–622R airplanes.

(4) Airbus Model A300 F4–605R airplanes.

(5) Airbus Model A300 C4–605R Variant F airplanes.

(6) Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 54, Nacelles/pylons.

(e) Reason

This AD was prompted by the determination that the compliance times for the initial inspection and the repetitive intervals must be reduced to allow timely detection of cracks in the engine pylon's lower spar between ribs 6 and 7. We are issuing this AD to detect and correct fatigue cracking, which could result in reduced structural integrity of the engine pylon's lower spar, and possible separation of the engine from the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspections and Corrective Actions

Except as provided by paragraphs (i)(1) and (i)(2) of this AD, at the applicable time specified in paragraph 1.E., "Compliance," of the applicable Airbus service bulletin specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD: Do an eddy current or liquid penetrant inspection for cracking of the engine pylon's lower spar between ribs 6 and 7; and do all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of the applicable Airbus service bulletin specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD, except as required by paragraph (i)(3) of this AD. Do all applicable related investigative and corrective actions before further flight. Repeat the inspection of the engine pylon's lower spar between ribs 6 and 7 thereafter at the applicable time and intervals specified in paragraph 1.E., "Compliance," of the applicable Airbus service bulletin specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD until a repair or modification specified in the Accomplishment Instructions of the applicable Airbus service bulletin identified in paragraph (g)(1), (g)(2), or (g)(3) of this AD is done.

(1) Airbus Service Bulletin A300–54–0073, Revision 03, dated October 11, 2012 (for Model A300 series airplanes).

Note 1 to paragraph (g)(1) of this AD: Airbus Service Bulletin A300–54–0080, Revision 02, dated July 9, 2002, is an additional source of guidance for accomplishing the modification specified in Airbus Service Bulletin A300–54–0073, Revision 03, dated October 11, 2012.

(2) Airbus Service Bulletin A300–54–6014, Revision 07, dated September 5, 2012 (for Model A300–600 series airplanes).

Note 2 to paragraph (g)(2) of this AD: Airbus Service Bulletin A300–54–6020, Revision 02, dated July 9, 2002, is an additional source of guidance for accomplishing the modification specified in Airbus Service Bulletin A300–54–6014, Revision 07, dated September 5, 2012.

(3) Airbus Service Bulletin A310–54–2017, Revision 06, dated October 3, 2012 (for Model A310 series airplanes).

Note 3 to paragraph (g)(3) of this AD: Airbus Service Bulletin A310–54–2023, Revision 03, dated July 9, 2002, is an additional source of guidance for accomplishing the modification specified in Airbus Service Bulletin A310–54–2017, Revision 06, dated October 3, 2012.

(h) Post-Repair/Modification and Corrective Actions

For airplanes on which any repair or modification specified in the Accomplishment Instructions of the applicable Airbus service bulletin identified in paragraph (g)(1), (g)(2), or (g)(3) of this AD is done: Except as provided by paragraphs (i)(1) and (i)(2) of this AD, at the applicable time specified in paragraph 1.E., "Compliance," of the applicable Airbus service bulletin specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD: Do an eddy current or liquid penetrant inspection for cracking of the engine pylon's lower spar between ribs 6 and 7; and do all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of the applicable Airbus service bulletin specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD, except as required by paragraph (i)(3) of this AD. Do all applicable related investigative and corrective actions before further flight. Repeat the inspection of the engine pylon's lower spar between ribs 6 and 7 thereafter at the applicable time and intervals specified in paragraph 1.E., "Compliance," of the applicable Airbus service bulletin specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD.

(i) Exceptions to Service Information

(1) Where a "Threshold" is specified in paragraph 1.E., "Compliance," of the service information specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD, the "FC" and "FH" compliance times are total flight cycle and total flight hour compliance times, except that if a repair or service bulletin identified in paragraph 1.E., "Compliance," of the service bulletins specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD has been done, the "FC" and "FH" compliance times are flight cycle and flight hour compliance times since the identified repair or service bulletin was done.

(2) Except as provided by paragraphs (i)(2)(i) and (i)(2)(ii) of this AD: For the "Grace period" specified in paragraph 1.E., "Compliance," of the service information specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD, operators must comply with the actions specified in paragraphs (g) and (h) of this AD, as applicable, at the later of the applicable times in the "Threshold" and "Grace Period" times specified in paragraph 1.E., "Compliance," of the applicable service information, except the language "for aircraft that have already exceeded or are close to exceed[ing] the threshold or scheduled interval" does not apply.

(i) Where Airbus Service Bulletin A300–54–0073, Revision 03, dated October 11, 2012; and Airbus Service Bulletin A310–54–2017, Revision 06, dated October 3, 2012; specify a compliance time ". . . after receipt of this Inspection Service Bulletin without exceeding the requirements of previous issue of this ISB," this AD requires compliance within the specified compliance time after the effective date of this AD.

(ii) Where Airbus Service Bulletin A300–54–6014, Revision 07, dated September 5, 2012, specifies a compliance time ". . . after receipt of this Inspection Service Bulletin without exceeding the requirements of previous issue of this SB," this AD requires compliance within the specified compliance time after the effective date of this AD.

(3) If any crack is found during any inspection required by this AD and the applicable Airbus service bulletin specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD specifies to contact Airbus: Before further flight, repair the crack using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

(j) Calculating Average Flight Time (AFT)

For the purpose of paragraphs (g) and (h) of this AD, the AFT must be established as specified in paragraphs (j)(1), (j)(2), and (j)(3) of this AD.

(1) For the initial inspection, the average flight time is the total accumulated flight hours, counted from take-off to touch-down, divided by the total accumulated flight cycles at the effective date of this AD.

(2) For the first repeated inspection interval, the average flight time is the total accumulated flight hours divided by the total accumulated flight cycles at the time of the inspection threshold.

(3) For all inspection intervals onwards, the average flight time is the flight hours divided by the flight cycles accumulated between the last two inspections.

(k) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using an applicable service bulletin specified in paragraphs (k)(1) through (k)(10) of this AD.

(1) Airbus Service Bulletin A300–54–0073, Revision 1, dated March 28, 1994 (for Model A300 series airplanes), which was incorporated by reference in AD 96–11–05, Amendment 39–9630 (61 FR 26091, May 24, 1996) ("AD 96–11–05").

(2) Airbus Service Bulletin A300–54–0073, Revision 02, dated July 9, 2002 (for Model A300 series airplanes), which is not incorporated by reference in this AD.

(3) Airbus Service Bulletin A300–54–6014, Revision 1, dated March 28, 1994 (for Model A300–600 series airplanes), which was incorporated by reference in AD 96–11–05.

(4) Airbus Service Bulletin A300–54–6014, Revision 03, dated June 4, 1998 (for Model A300–600 series airplanes), which is not incorporated by reference in this AD.

(5) Airbus Service Bulletin A300–54–6014, Revision 04, dated March 9, 2002 (for Model A300–600 series airplanes), which is not incorporated by reference in this AD.

(6) Airbus Service Bulletin A300–54–6014, Revision 05, dated September 1, 2011 (for Model A300–600 series airplanes), which is not incorporated by reference in this AD.

(7) Airbus Service Bulletin A300–54–6014, Revision 06, dated May 24, 2012 (for Model A300–600 series airplanes), which is not incorporated by reference in this AD.

(8) Airbus Service Bulletin A310–54–2017, Revision 03, dated June 11, 1999 (for Model A310 series airplanes), which was incorporated by reference in AD 2000–10–18.

(9) Airbus Service Bulletin A310–54–2017, Revision 04, dated July 9, 2002 (for Model A310 series airplanes), which is not incorporated by reference in this AD.

(10) Airbus Service Bulletin A310–54–2017, Revision 05, dated November 16, 2007 (for Model A310 series airplanes), which is not incorporated by reference in this AD.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(ii) AMOCs approved previously for AD 2000–10–18 are approved as AMOCs for the corresponding provisions of this AD.

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2013–0167, dated July 26, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–5039.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (n)(3) and (n)(4) of this AD.

(n) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Airbus Service Bulletin A300–54–0073, Revision 03, dated October 11, 2012.

(ii) Airbus Service Bulletin A300–54–6014, Revision 07, dated September 5, 2012.

(iii) Airbus Service Bulletin A310–54–2017, Revision 06, dated October 3, 2012.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on September 12, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–22460 Filed 9–23–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1068; Directorate Identifier 2010–NM–189–AD; Amendment 39–18647; AD 2016–18–16]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This AD was prompted by fuel system reviews conducted by the manufacturer. This AD requires installing an automatic shutoff system for the center and auxiliary tank fuel boost pumps, as applicable; installing a placard in the airplane flight deck if necessary; replacing the P5–2 fuel system module assembly; installing the "uncommanded ON" (UCO) protection system for the fuel boost pumps; revising the airplane flight manual (AFM) to advise the flight crew of certain operating restrictions for airplanes equipped with an automatic shutoff system; and revising the maintenance program by incorporating new airworthiness limitations for fuel tank systems to satisfy Special Federal Aviation Regulation No. 88 requirements. We are issuing this AD to prevent operation of the center and auxiliary tank fuel boost pumps with continuous low pressure, which could lead to friction sparks or overheating in the fuel pump inlet that could create a potential ignition source inside the center and auxiliary fuel tanks. These conditions, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: This AD is effective October 31, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 31, 2016.

ADDRESSES: For Boeing service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone: 206–544–5000, extension 1; fax: 206–766–5680; Internet *https://www.myboeingfleet.com.* For BAE Systems service information identified in this final rule, contact BAE Systems, Attention: Commercial Product Support, 600 Main Street, Room S18C, Johnson City, NY 13790–1806; phone: 607–770–3084; fax: 607–770–3015; email: *CS-Customer.Service@baesystems.com;* Internet: *http://www.baesystems-ps.com/customersupport.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2011–1068.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2011–1068; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Serj Harutunian, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5254; fax: 562–627–5210; email: *Serj.Harutunian@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. The SNPRM published in the **Federal Register** on March 28, 2016 (81 FR 17098) ("the SNPRM"). We preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on October 12, 2011 (76 FR 63229) ("the NPRM"). The NPRM proposed to require installing an automatic shutoff system for the center and auxiliary tank fuel boost pumps, as applicable; installing a placard in the airplane flight deck if necessary; replacing the P5–2 fuel system module assembly; installing the UCO protection system for the fuel boost pumps; revising the airplane flight manual to advise the flight crew of certain operating restrictions for airplanes equipped with an automatic shutoff system; and revising the maintenance program by incorporating new airworthiness limitations for fuel tank systems to satisfy Special Federal Aviation Regulation No. 88 requirements. The NPRM was prompted by fuel system reviews conducted by the manufacturer. The SNPRM proposed to require updated or additional actions for certain airplane configurations. We are issuing this AD to prevent operation of the center and auxiliary tank fuel boost pumps with continuous low pressure, which could lead to friction sparks or overheating in the fuel pump inlet that could create a potential ignition source inside the center and auxiliary fuel tanks. These conditions, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the SNPRM and the FAA's response to each comment. Boeing concurred with the SNPRM.

Grouping Clarification for Airplanes With Removed Airstairs

Phillippe Akot Azougo, ASLF, reported on a discussion with Boeing regarding the applicable airplane group for an airplane from which the airstair has been removed. Boeing indicated that if all of the support structure is not removed, the airplane is considered in the group with airstairs. Based on this comment, there is no need to change this final rule regarding this issue.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that the installation of winglets per Supplemental Type Certificate (STC) ST01219SE does not affect the accomplishment of the manufacturer's service instructions.

We agree with the commenter that STC ST01219SE does not affect the accomplishment of the manufacturer's service instructions. Therefore, the installation of STC ST01219SE does not affect the ability to accomplish the actions required by this AD. We have not changed this AD in this regard.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD as proposed, except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the SNPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the SNPRM.

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Related Service Information Under 1 CFR Part 51

We reviewed the following service information:

The following describe procedures for replacing the P5–2 fuel system module assembly for Model 737–100, –200, –200C, –300, –400, and –500 airplanes.

- Boeing Alert Service Bulletin 737–28A1210, dated August 2, 2010.
- Boeing Service Bulletin 737–28A1210, Revision 1, dated May 13, 2011.
- Boeing Service Bulletin 737–28A1210, Revision 2, dated October 25, 2012.

The following describe procedures for installing an automatic shutoff system for the center and auxiliary fuel tank boost pumps for Model 737–300, –400, and –500 airplanes.

- Boeing Alert Service Bulletin 737–28A1216, dated July 29, 2010.
- Boeing Service Bulletin 737–28A1216, Revision 1, dated March 26, 2012.
- Boeing Service Bulletin 737–28A1216, Revision 2, dated November 12, 2012.
- Boeing Service Bulletin 737–28A1216, Revision 3, dated July 16, 2014.

The following describe procedures for installing a UCO protection system for the center and auxiliary fuel boost pumps for Model 737–100, –200, –200C, –300, –400, and –500 airplanes.

- Boeing Alert Service Bulletin 737–28A1227, dated August 2, 2010.
- Boeing Alert Service Bulletin 737–28A1227, Revision 1, dated July 18, 2011.
- Boeing Service Bulletin 737–28A1227, Revision 2, dated September 23, 2014.

The following describe procedures for installing an automatic shutoff system for the center and auxiliary fuel tank boost pumps for Model 737–100, –200, and –200C airplanes.

- Boeing Alert Service Bulletin 737–28A1228, dated August 2, 2010.
- Boeing Alert Service Bulletin 737–28A1228, Revision 1, dated June 28, 2012.
- Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision June 2014, contains, among other requirements, AWLs 28–AWL–21, 28–AWL–22, 28–AWL–24, and 28–AWL–25 for Model 737–100, –200, and –200C airplanes; and AWLs 28–AWL–20, 28–AWL–21, 28–AWL–23, and 28–AWL–24; for Model 737–300, –400, and –500 airplanes. These AWLs provide airworthiness limitation instructions for an operational check of the installed automatic shutoff system.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 499 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Install auto shutoff protection for Model 737–100, –200, –200C airplanes (82 airplanes).	Between 92 and 155 work-hours × $85 per hours = Between $7,820 and $13,175[1].	Between $10,792 and $15,548[1].	Between $18,612 and $28,723[1].	Between $1,526,184 and $2,355,286[1].
Install auto shutoff protection for Model 737–300, –400, and –500 airplanes (417 airplanes).	Between 92 and 152 work-hours × $85 per hours = Between $7,820 and $12,920[1].	Between $9,869 and $16,236[1].	Between $17,689 and $29,156[1].	Between $7,376,313 and $12,158,052[1].
Install P5–2 module (499 airplanes)	1 work-hour × $85 per hour = $85	$0	$85	$42,415.
Install UCO protection (499 airplanes).	Between 38 and 67 work-hours × $85 per hours = Between $3,230 and $5,695[1].	Between $3,742 and $4,861[1].	Between $6,972 and $10,556[1].	Between $3,479,028 and $5,267,444[1].
Revise airplane flight manual (499 airplanes).	1 work-hour × $85 per hour = $85	$0	$85	$42,415
Revise maintenance program (499 airplanes).	1 work-hour × $85 per hour = $85	$0	$85	$42,415

[1] Depending on group.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2016–18–16 The Boeing Company: Amendment 39–18647; Docket No. FAA–2011–1068; Directorate Identifier 2010–NM–189–AD.

(a) Effective Date

This AD is effective October 31, 2016.

(b) Affected ADs

Certain requirements of this AD terminate certain requirements of AD 2001–08–24, Amendment 39–12201 (66 FR 20733, April 25, 2001) ("AD 2001–08–24").

(c) Applicability

This AD affects all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes; certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent operation of the center and auxiliary tank fuel boost pumps with continuous low pressure, which could lead to friction sparks or overheating in the fuel pump inlet that could create a potential ignition source inside the center and auxiliary fuel tanks. These conditions, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Installation of Automatic Shutoff System for the Center and Auxiliary Tank Fuel Boost Pumps

Within 36 months after the effective date of this AD, do the applicable actions specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD. If a placard has been previously installed on an airplane, in accordance with the requirements of paragraph (i) of this AD, the placard may be removed from the flight deck of only that airplane after the automatic shutoff system has been installed, as specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD, as applicable.

(1) For Model 737–100, –200, and –200C series airplanes in Groups 2 through 19, as identified in Boeing Alert Service Bulletin 737–28A1228, Revision 1, dated June 28, 2012: Install the automatic shutoff system for the center and auxiliary fuel tank boost pumps, as applicable, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1228, Revision 1, dated June 28, 2012. For airplanes that do not have airstairs, accomplishment of the actions specified in Boeing Alert Service Bulletin 737–28A1228, dated August 2, 2010, is acceptable for compliance with the requirements of this paragraph, provided markers are installed on the J2802 Box for "POS 1" and "POS 2" within 90 days after the effective date of this AD, in accordance with Boeing Alert Service Bulletin 737–28A1228, Revision 1, dated June 28, 2012.

(2) For Model 737–100, –200, and –200C series airplanes in Group 1, as identified in Boeing Alert Service Bulletin 737–28A1228, Revision 1, dated June 28, 2012: Install the automatic shutoff system for the center and auxiliary fuel tank boost pumps, as applicable, using a method approved in accordance with the procedures specified in paragraph (r) of this AD.

(3) For Model 737–300, –400, and –500 series airplanes in Groups 1 through 31, as identified in Boeing Service Bulletin 737–28A1216, Revision 3, dated July 16, 2014: Install the automatic shutoff system for the center and auxiliary fuel tank boost pumps, as applicable, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–28A1216, Revision 3, dated July 16, 2014. For airplanes that do not have airstairs: Accomplishment of the actions specified in Boeing Alert Service Bulletin 737–28A1216, dated July 29, 2010, is acceptable for compliance with the requirements of this paragraph, provided markers are installed on the J2802 Box for "POS 1" and "POS 2" within 90 days after the effective date of this AD, in accordance with Boeing Alert Service Bulletin 737–28A1216, Revision 1, dated March 26, 2012; or Boeing Service Bulletin 737–28A1216, Revision 2, dated November 12, 2012.

(h) Concurrent Installation of P5–2 Fuel System Module Assembly

Before or concurrently with accomplishment of the actions required by paragraph (g) of this AD, do the actions specified in paragraph (h)(1) or (h)(2) of this AD, as applicable. Accomplishment of the actions specified in Boeing Alert Service Bulletin 737–28A1210, dated August 2, 2010; or Boeing Service Bulletin 737–28A1210, Revision 1, dated May 13, 2011; is acceptable for compliance with the requirements of paragraph (h)(1) of this AD, provided that for any original P5–2 fuel system module P/N 69–37335–129 installed that has been reworked as specified in BAE Systems Service Bulletin 69–37335–28–04, Revision 2, dated February 10, 2010, the (P/N) marking is etched/scribed or labeled as P/N 69–37335–2129, within 90 days after the effective date of this AD.

(1) For airplanes in Group 2, as identified in Boeing Service Bulletin 737–28A1210, Revision 2, dated October 25, 2012: Replace the P5–2 fuel system module assembly with a modified or new P5–2 fuel system module assembly having a new part number, in accordance with Boeing Service Bulletin 737–28A1210, Revision 2, dated October 25, 2012.

Note 1 to paragraph (h)(1) of this AD: Boeing Service Bulletin 737–28A1210, Revision 2, dated October 25, 2012, refers to BAE Systems Service Bulletin 69–37335–28–04 as an additional source of guidance for modifying and updating the existing P5–2 fuel system module assembly part numbers.

(2) For airplanes in Group 1, as identified in Boeing Service Bulletin 737–28A1210,

Revision 2, dated October 25, 2012: Replace the P5–2 fuel system module assembly, as applicable, using a method approved in accordance with the procedures specified in paragraph (r) of this AD.

(i) Concurrent Installation of a Placard for Mixed Fleet Operation

Concurrently with accomplishment of the actions required by paragraph (g) of this AD, install a placard adjacent to the pilot's primary flight display on all airplanes in the operator's fleet not equipped with an automatic shutoff system for the center and auxiliary tank fuel boost pumps, as applicable. The placard must include the statement in figure 1 to paragraph (i) of this AD. Optionally, the placard may include alternative text or be installed in a different location, or an additional placard may be installed, if approved by an appropriate FAA principal operations inspector. Installing an automatic shutoff system on an airplane, in accordance with the requirements of paragraph (g) of this AD, terminates the placard installation required by this paragraph for only that airplane.

Figure 1 to Paragraph (i) of this AD – *Fuel usage restrictions*

AD 2001-08-24 fuel usage restrictions required.

(j) Airplane Flight Manual (AFM) Revisions for Airplanes Without Boeing Auxiliary Fuel Tanks

For airplanes without Boeing auxiliary fuel tanks: Concurrently with accomplishment of the actions required by paragraph (g) of this AD, do the actions specified in paragraphs (j)(1) and (j)(2) of this AD.

(1) Revise Section 1 of the Limitations section of the applicable Boeing 737 AFM to include the statement in figure 2 to paragraph (j)(1) of this AD. This may be done by inserting a copy of this AD into the AFM. When a statement identical to that in figure 2 to paragraph (j)(1) of this AD has been included in the general revisions of the applicable Boeing 737 AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

Figure 2 to Paragraph (j)(1) of this AD – *Prohibition of dry running – center fuel tank fuel pumps*

CENTER TANK FUEL PUMPS

Intentional dry running of a center tank fuel pump (low pressure light illuminated) is prohibited.

BILLING CODE 4910–13–P

(2) Revise Section 3 of the Normal Procedures section of the applicable Boeing 737 AFM to include the text specified in figure 3 to paragraph (j)(2) of this AD. This may be done by inserting a copy of this AD into the AFM. Alternative statements that meet the intent of the following requirements may be used if approved by an appropriate FAA principal operations inspector.

Figure 3 to Paragraph (j)(2) of this AD – ***Normal fuel usage***

NORMAL FUEL USAGE

Center tank fuel pumps must not be "ON" unless personnel are available in the flight deck to monitor low pressure lights.

For ground operation, center tank fuel pump switches must not be positioned "ON" unless the center tank fuel quantity exceeds 1,000 pounds (453 kilograms), except when defueling or transferring fuel. Upon positioning the center tank fuel pump switches "ON," verify momentary illumination of each center tank fuel pump low pressure light.

For ground and flight operations, the corresponding center tank fuel pump switch must be positioned "OFF" when a center tank fuel pump low pressure light illuminates [1]. Both center tank fuel pump switches must be positioned "OFF" when the first center tank fuel pump low pressure light illuminates if the center tank is empty.

[1] When established in a level flight attitude, both center tank pump switches should be positioned "ON" again if the center tank contains usable fuel.

DEFUELING AND FUEL TRANSFER

When transferring fuel or defueling center or main tanks, the fuel pump low pressure lights must be monitored and the fuel pumps positioned to "OFF" at the first indication of the fuel pump low pressure [1].

Defueling the main tanks with passengers on board is prohibited if the main tank fuel pumps are powered [2].

Defueling the center tank with passengers on board is prohibited if the center tank fuel pumps are powered and the auto-shutoff system is inhibited [2].

[1] Prior to transferring fuel or defueling, conduct a lamp test of the respective fuel pump low pressure lights.

[2] Fuel may be transferred from tank to tank or the aircraft may be defueled with passengers on board, provided fuel quantity in the tank from which fuel is being taken is maintained at or above 2,000 pounds (907 kilograms).

BILLING CODE 4910–13–C

(k) AFM Revisions for Airplanes With Boeing Auxiliary Fuel Tanks

For airplanes with Boeing auxiliary fuel tanks: Concurrently with accomplishment of the actions required by paragraph (g) of this AD, do the actions specified in paragraphs (k)(1) and (k)(2) of this AD.

(1) Revise Section 1 of the Limitations section of the applicable Boeing 737 AFM to include the text specified in figure 4 to paragraph (k)(1) of this AD. This may be done by inserting a copy of this AD into the AFM. When a statement identical to that in figure 4 to paragraph (k)(1) of this AD has been included in the general revisions of the applicable Boeing 737 AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

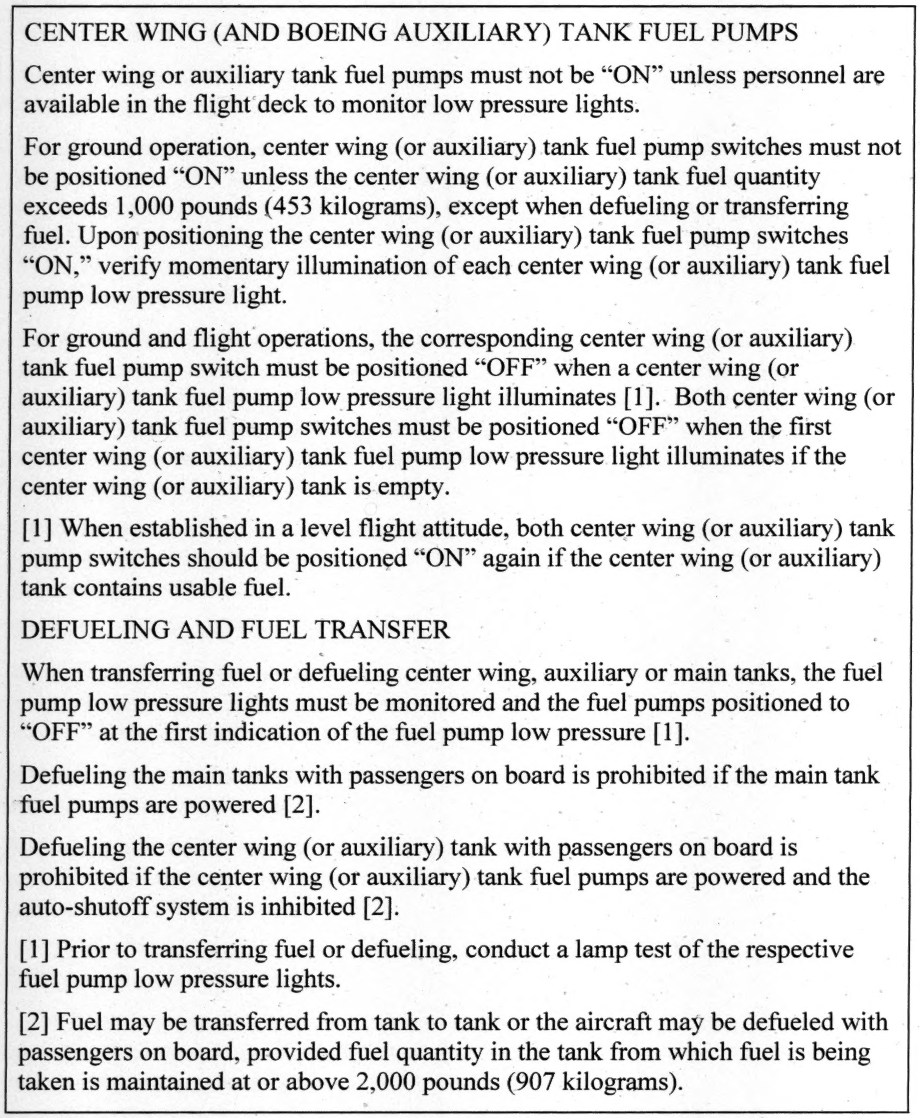
Figure 4 to Paragraph (k)(1) of this AD – *Prohibition of dry running – center/auxiliary tank fuel pump*

> CENTER WING (AND BOEING AUXILIARY) TANK FUEL PUMPS
>
> Intentional dry running of a center wing or auxiliary tank fuel pump (low pressure light illuminated) is prohibited.

BILLING CODE 4910–13–P

(2) Revise Section 3 of the Normal Procedures section of the applicable Boeing 737 AFM to include the text specified in figure 5 to paragraph (k)(2) of this AD. This may be done by inserting a copy of this AD into the AFM. Alternative statements that meet the intent of the following requirements may be used if approved by an appropriate FAA principal operations inspector.

Figure 5 to Paragraph (k)(2) of this AD – ***Operation of center/auxiliary tank fuel pumps***



CENTER WING (AND BOEING AUXILIARY) TANK FUEL PUMPS

Center wing or auxiliary tank fuel pumps must not be "ON" unless personnel are available in the flight deck to monitor low pressure lights.

For ground operation, center wing (or auxiliary) tank fuel pump switches must not be positioned "ON" unless the center wing (or auxiliary) tank fuel quantity exceeds 1,000 pounds (453 kilograms), except when defueling or transferring fuel. Upon positioning the center wing (or auxiliary) tank fuel pump switches "ON," verify momentary illumination of each center wing (or auxiliary) tank fuel pump low pressure light.

For ground and flight operations, the corresponding center wing (or auxiliary) tank fuel pump switch must be positioned "OFF" when a center wing (or auxiliary) tank fuel pump low pressure light illuminates [1]. Both center wing (or auxiliary) tank fuel pump switches must be positioned "OFF" when the first center wing (or auxiliary) tank fuel pump low pressure light illuminates if the center wing (or auxiliary) tank is empty.

[1] When established in a level flight attitude, both center wing (or auxiliary) tank pump switches should be positioned "ON" again if the center wing (or auxiliary) tank contains usable fuel.

DEFUELING AND FUEL TRANSFER

When transferring fuel or defueling center wing, auxiliary or main tanks, the fuel pump low pressure lights must be monitored and the fuel pumps positioned to "OFF" at the first indication of the fuel pump low pressure [1].

Defueling the main tanks with passengers on board is prohibited if the main tank fuel pumps are powered [2].

Defueling the center wing (or auxiliary) tank with passengers on board is prohibited if the center wing (or auxiliary) tank fuel pumps are powered and the auto-shutoff system is inhibited [2].

[1] Prior to transferring fuel or defueling, conduct a lamp test of the respective fuel pump low pressure lights.

[2] Fuel may be transferred from tank to tank or the aircraft may be defueled with passengers on board, provided fuel quantity in the tank from which fuel is being taken is maintained at or above 2,000 pounds (907 kilograms).

BILLING CODE 4910–13–C

(l) Airworthiness Limitations (AWLs) Revision for Automatic Shutoff System

Concurrently with accomplishment of the actions required by paragraph (g) of this AD, or within 30 days after the effective date of this AD, whichever occurs later: Revise the maintenance program by incorporating the AWLs specified in paragraphs (l)(1), (l)(2), (l)(3), and (l)(4) of this AD, as applicable. The initial compliance time for the actions specified in the applicable AWLs is within 1 year after accomplishment of the installation required by paragraph (g) of this AD, or within 1 year after the effective date of this AD, whichever occurs later.

(1) For Model 737–100, –200, and –200C series airplanes without Boeing auxiliary fuel tanks installed: Incorporate AWL No. 28–AWL–21 of Section C., Airworthiness Limitations—Systems, of Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision June 2014.

(2) For Model 737–100, –200, and –200C series airplanes with Boeing auxiliary fuel tanks installed: Incorporate AWL No. 28–AWL–21 and AWL No. 28–AWL–22 of Section C., Airworthiness Limitations—Systems," of Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision June 2014.

(3) For Model 737–300, –400, and –500 series airplanes without Boeing auxiliary fuel tanks installed: Incorporate AWL No. 28–AWL–20 of Section C., Airworthiness Limitations—Systems, of Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision June 2014.

(4) For Model 737–300, –400, and –500 series airplanes with Boeing auxiliary fuel tanks installed: Incorporate AWL No. 28–AWL–20 and AWL No. 28–AWL–21 of

Section C., Airworthiness Limitations—Systems, of Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision June 2014.

(m) Installation of Un-commanded ON (UCO) Protection System

Within 60 months after the effective date of this AD, do the actions required by paragraph (m)(1) or (m)(2) of this AD, as applicable.

(1) For airplanes in Groups 2 through 13, as identified in Boeing Service Bulletin 737–28A1227, Revision 2, dated September 23, 2014: Install the UCO protection system for the center and auxiliary tank fuel boost pumps, as applicable, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–28A1227, Revision 2, dated September 23, 2014. For airplanes with enlarged J2802 box assembly relay cutouts to fit the body of relays R3334, R3336, R3338, or R3340, with BACS12HN08–10 screws for the installation of the relays as specified in Boeing Service Bulletin Information Notice 737–28A1227 IN 05: Accomplishment of the actions specified in Boeing Alert Service Bulletin 737–28A1227, dated August 2, 2010; or Revision 1, dated July 18, 2011; is acceptable for compliance with the requirements of this paragraph, provided markers are installed that identify the function of the switches installed on the J2802 box within 90 days after the effective date of this AD, in accordance with figure 1 or figure 5, as applicable, of Boeing Service Bulletin 737–28A1227, Revision 2, dated September 23, 2014.

(2) For airplanes in Group 1, as identified in Boeing Service Bulletin 737–28A1227, Revision 2, dated September 23, 2014: Install the UCO protection system for the center and auxiliary tank fuel boost pumps, as applicable, using a method approved in accordance with the procedures specified in paragraph (r) of this AD.

(n) AWLs Revision for UCO Protection System

Concurrently with accomplishment of the actions required by paragraph (m) of this AD, or within 30 days after the effective date of this AD, whichever occurs later: Revise the maintenance program by incorporating the AWLs specified in paragraphs (n)(1), (n)(2), (n)(3), and (n)(4) of this AD, as applicable. The initial compliance time for the actions specified in applicable AWLs is within 1 year after accomplishment of the installation required by paragraph (m) of this AD, or within 1 year after the effective date of this AD, whichever occurs later.

(1) For Model 737–100, –200, and –200C series airplanes without Boeing auxiliary fuel tanks: Incorporate AWL No. 28–AWL–24 of Section C., Airworthiness Limitations—Systems, of Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision June 2014.

(2) For Model 737–100, –200, and –200C series airplanes with Boeing auxiliary fuel tanks: Incorporate AWL No. 28–AWL–24 and AWL No. 28–AWL–25 of Section C., Airworthiness Limitations, of Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision June 2014.

(3) For Model 737–300, –00, and –500 series airplanes without Boeing auxiliary fuel tanks: Incorporate AWL No. 28–AWL–23 of Section C., Airworthiness Limitations—Systems, of Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision June 2014.

(4) For Model 737–300, –400, and –500 series airplanes with Boeing auxiliary fuel tanks: Incorporate AWL No. 28–AWL–23 and AWL No. 28–AWL–24 of Section C, "Fuel Systems Airworthiness Limitations," of Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision June 2014.

(o) No Alternative Inspections or Inspection Intervals

After accomplishment of the applicable actions specified in paragraphs (l) and (n) of this AD, no alternative inspections or inspection intervals may be used unless the inspections or inspection intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (r) of this AD.

(p) Method of Compliance for Paragraph (l) of This AD

Incorporating AWL No. 28–AWL–21 and AWL No. 28–AWL–22 for Model 737–100, –200, and –200C series airplanes; and AWL No. 28–AWL–20 and AWL No. 28–AWL–21 for Model 737–300, –400, and –500 series airplanes; in accordance with paragraphs (g)(1) and (g)(2) of AD 2008–10–09 R1, Amendment 39–16148 (74 FR 69264, December 31, 2009); is acceptable for compliance with the corresponding AWL incorporation required by paragraph (l) of this AD.

(q) Method of Compliance for Paragraph (a) of AD 2001–08–24

Accomplishment of the actions required by paragraphs (g), (h), (i), and (l) of this AD, and paragraph (j) or (k) of this AD as applicable, is an acceptable method of compliance with the requirements of paragraph (a) of AD 2001–08–24.

(r) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (s)(1) of this AD. Information may be emailed to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(s) Related Information

(1) For more information about this AD, contact Serj Harutunian, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5254; fax: 562–627–5210; email: *Serj.Harutunian@faa.gov.*

(2) For BAE Systems service information identified in this AD that is not incorporated by reference, contact BAE Systems, Attention: Commercial Product Support, 600 Main Street, Room S18C, Johnson City, NY 13790–1806; phone: 607–770–3084; fax: 607–770–3015; email: *CS-Customer.Service@baesystems.com;* Internet: *http://www.baesystems-ps.com/customersupport.* It is also available at the address specified in paragraph (t)(5) of this AD. Boeing service information identified in this AD that is not incorporated by reference is also available at the addresses specified in paragraphs (t)(4) and (t)(5) of this AD.

(t) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(3) The following service information was approved for IBR on October 31, 2016.

(i) Boeing Alert Service Bulletin 737–28A1210, dated August 2, 2010.

(ii) Boeing Alert Service Bulletin 737–28A1216, dated July 29, 2010.

(iii) Boeing Alert Service Bulletin 737–28A1216, Revision 1, dated March 26, 2012.

(iv) Boeing Alert Service Bulletin 737–28A1227, dated August 2, 2010.

(v) Boeing Alert Service Bulletin 737–28A1227, Revision 1, dated July 18, 2011.

(vi) Boeing Alert Service Bulletin 737–28A1228, dated August 2, 2010.

(vii) Boeing Alert Service Bulletin 737–28A1228, Revision 1, dated June 28, 2012.

(viii) Boeing Service Bulletin 737–28A1210, Revision 1, dated May 13, 2011.

(ix) Boeing Service Bulletin 737–28A1210, Revision 2, dated October 25, 2012.

(x) Boeing Service Bulletin 737–28A1216, Revision 2, dated November 12, 2012.

(xi) Boeing Service Bulletin 737–28A1216, Revision 3, dated July 16, 2014.

(xii) Boeing Service Bulletin 737–28A1227, Revision 2, dated September 23, 2014.

(xiii) Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–38278–CMR, Revision June 2014.

(4) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone: 206–544–5000, extension 1; fax: 206–766–5680; Internet *https://www.myboeingfleet.com.*

(5) You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(6) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on August 25, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21602 Filed 9–23–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0935; Directorate Identifier 2014–NM–243–AD; Amendment 39–18652; AD 2016–19–03]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes. This AD was prompted by several reports of chafing of the wire bundles inside the electrical conduit of the forward and aft boost pumps of the numbers 1 and 4 main fuel tanks due to high vibration. These wire bundles can chafe through the wire sleeving into the insulation, exposing the wire conductors. This AD requires replacing the wire bundles inside the electrical conduit of the forward and aft boost pumps of the numbers 1 and 4 main fuel tanks with new, improved wire bundles inserted into conduit liners. This AD also requires adding a revision to the maintenance or inspection program, as applicable, to include critical design configuration control limitations (CDCCLs) for the fuel boost pump wiring. We are issuing this AD to prevent chafing of the wire bundles and subsequent arcing between the wiring and the electrical conduit creating an ignition source in the fuel tanks, which could result in a fire and consequent fuel tank explosion.

DATES: This AD is effective October 31, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 31, 2016.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone: 206–544–5000, extension 1; fax: 206–766–5680; Internet: *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0935.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0935; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tung Tran, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6505; fax: 425–917–6590; email: *tung.tran@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes. The SNPRM published in the **Federal Register** on March 8, 2016 (81 FR 12041) (“the SNPRM”). We preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on May 1, 2015 (80 FR 24850) (“the NPRM”). The NPRM proposed to require replacing the wire bundles inside the electrical conduit of the forward and aft boost pumps of the numbers 1 and 4 main fuel tanks with new, improved wire bundles inserted into conduit liners. The NPRM was prompted by several reports of chafing of the wire bundles inside the electrical conduit of the forward and aft boost pumps of the numbers 1 and 4 main fuel tanks due to high vibration. These wire bundles can chafe through the wire sleeving into the insulation, exposing the wire conductors. The SNPRM proposed to require a revision to the maintenance or inspection program, as applicable, to include CDCCLs for the fuel boost pump wiring. We are issuing this AD to prevent chafing of the wire bundles and subsequent arcing between the wiring and the electrical conduit creating an ignition source in the fuel tanks, which could result in a fire and consequent fuel tank explosion.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comments received. The Air Line Pilots Association International, Boeing, and United Airlines supported the SNPRM.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD as proposed, except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the SNPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the SNPRM.

Related Service Information Under 1 CFR Part 51

We reviewed the following service information:

- Boeing Alert Service Bulletin 747–28A2306, dated October 2, 2014. The service information describes procedures for replacing the wire bundles of the electrical conduit inside the electrical conduit of the forward and aft boost pumps of the numbers 1 and 4 main fuel tanks.
- Boeing 747–100/200/300/SP Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–13747–CMR, Revision June 2014. Among other things, Document D6–13747–CMR describes CDCCL AWL No. 28–AWL–24 for the fuel boost pump wiring.
- Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), of Boeing 747–400 Maintenance Planning Data (MPD) Document D621U400–9, Revision June 2014. Among other things, Section 9 describes CDCCL AWL No. 28–AWL–35 for the fuel boost pump wiring.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 176 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement	Up to 53 work-hours × $85 per hour = $4,505.	$4,600	Up to $9,105	Up to $1,602,480.
Revise maintenance or inspection program.	1 work-hour × $85 per hour = $85	$0	$85	$14,960.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2016–19–03 The Boeing Company: Amendment 39–18652; Docket No. FAA–2015–0935; Directorate Identifier 2014–NM–243–AD.

(a) Effective Date

This AD is effective October 31, 2016.

(b) Affected ADs

This AD affects AD 2011–15–03, Amendment 39–16750 (76 FR 41659, July 15, 2011). ("AD 2011–15–03")

(c) Applicability

This AD applies to The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 747–28A2306, dated October 2, 2014.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by several reports of chafing of the wire bundles inside the electrical conduit of the forward and aft boost pumps of the numbers 1 and 4 main fuel tanks due to high vibration. These wire bundles can chafe through the wire sleeving into the insulation, exposing the wire conductors. We are issuing this AD to prevent chafing of the wire bundles and subsequent arcing between the wiring and the electrical conduit creating an ignition source in the fuel tanks, which could result in a fire and consequent fuel tank explosion.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Replacement

Within 60 months after the effective date of this AD: Replace the wire bundles inside the electrical conduit of the forward and aft boost pumps of the numbers 1 and 4 main fuel tanks with new, improved wire bundles inserted into conduit liners, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–28A2306, dated October 2, 2014. Accomplishing the replacement required by this paragraph terminates the inspections required by paragraphs (g), (h), and (n) of AD 2011–15–03.

(h) Maintenance or Inspection Program Revision

Within 180 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate critical design configuration control limitation (CDCCL) Airworthiness Limitation (AWL) No. 28–AWL–24, "Fuel Boost Pump Wires In Conduit Installation—In Fuel Tank," of Subsection C.1, "Fuel Tank Ignition Prevention," of Section C., "Airworthiness Limitations—Systems," of the Boeing 747–100/200/300/SP Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs) Document D6–13747–CMR, Revision June 2014; or CDCCL AWL No. 28–AWL–35, "Fuel Boost Pump Wires In Conduit Installation—In Fuel Tank," of Sub-section B.1, "Fuel System Ignition Prevention," of Section B, "Airworthiness Limitations (AWLs)—Systems," of Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), of Boeing 747–400 Maintenance Planning Data (MPD) Document D621U400–9, Revision June 2014; as applicable.

(i) No Alternative Actions, Intervals, and/or CDCCLs

After accomplishing the revision required by paragraph (h) of this AD, no alternative actions (*e.g.*, inspections), intervals, and/or CDCCLs may be used unless the actions, intervals, and/or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j) of this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (k)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Related Information

For more information about this AD, contact Tung Tran, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6505; fax: 425–917–6590; email: *tung.tran@faa.gov.*

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Boeing Alert Service Bulletin 747–28A2306, dated October 2, 2014.

(ii) Boeing 747–100/200/300/SP Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs) Document D6–13747–CMR, Revision June 2014.

(iii) Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), of Boeing 747–400 Maintenance Planning Data (MPD) Document D621U400–9, Revision June 2014.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; phone: 206–544–5000, extension 1; fax: 206–766–5680; Internet: *https://www.myboeingfleet.com.*

(4) You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on September 6, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–22188 Filed 9–23–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 145

[Docket No.: FAA–2016–8744; Amdt. No. 145–31]

RIN 2120–AK86

Repair Stations; Response to Public Comments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; confirmation of effective date and response to public comments.

SUMMARY: This action confirms the effective date and adopts as final the interim final rule published on July 27, 2016, and responds to the comments received on that interim final rule. The rule removed the requirement that a repair station with an airframe rating provide suitable permanent housing to enclose the largest type and model aircraft listed on its operations specifications. The FAA also revised its general housing and facilities regulation to provide that a repair station's housing for its facilities, equipment, materials, and personnel must be consistent not only with its ratings, but also with its limitations to those ratings. Finally, the FAA added an additional general purpose limited rating to cover maintenance work not covered by the existing 12 limited rating categories.

DATES: Effective September 26, 2016.

ADDRESSES: For information on where to obtain copies of rulemaking documents and other information related to this action, see "How To Obtain Additional Information" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Susan Traugott Ludwig, Aircraft Maintenance Division, Repair Station Branch, AFS–340, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (214) 587–8887; email *susan.traugott.ludwig@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued an interim final rule on July 15, 2016 (81 FR 49158) to revise its repair station rules to remove the one-size-fits-all requirement of § 145.103(b) and provide an additional limited rating category to cover work not addressed by the existing 12 categories. These actions will assist the repair station industry by eliminating the costly housing requirement that is not necessary in many cases.

Discussion of Comments

The FAA received two comments from the Aeronautical Repair Station Association (ARSA) and Airbus. ARSA stated that it fully supported the agency's actions as the regulations were unclear and needed to be updated. ARSA noted that although the changed rule still does not distinguish between repair stations working on completed aircraft and those working on airframe components, the removal of specified housing for airframe ratings will certainly allow for performance-based compliance. ARSA also requested the FAA consider removing § 145.61(b) in its entirety. ARSA asserted that it seems the language in § 145.61(a) alone would be sufficient to ensure appropriate ratings and limitations could be determined without the list in § 145.61(b). ARSA stated the reinstitution of paragraph (b)(13) is merely a specific acknowledgement of the general language in § 145.61(a). ARSA also specifically requested that the agency not deem its observation as opposition to the interim final rule, rather, a suggestion for consideration.

The FAA agrees with ARSA's comment that the removal of specified airframe rated housing requirements will allow for performance-based compliance. The FAA notes ARSA's suggestion to remove § 145.61(b) in its entirety and may consider it in a future rulemaking effort. Airbus requested clarification on the correct title for § 145.205, Maintenance, preventive maintenance, and alterations performed for certificate holders under parts 121, 125, and 135, and for foreign persons operating a U.S.-registered aircraft in common carriage under part 129. Airbus noted the word "performed" is spelled "per-formed" in the interim final rule and spelled "performed" in the electronic Code of Regulations (eCFR). Airbus asked which format was correct.

The FAA notes the title in the eCFR is correct.

Conclusion

After consideration of the comments submitted in response to the interim final rule, the FAA has determined that no further rulemaking action is necessary. Therefore, amendment No. 145–31 remains in effect.

How To Obtain Additional Information

A. Rulemaking Documents

An electronic copy of a rulemaking document my be obtained by using the Internet—

1. Search the Federal eRulemaking Portal (*http://www.regulations.gov*);
2. Visit the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies/* or
3. Access the Government Printing Office's Web page at *http://www.gpo.gov/fdsys/*.

Copies may also be obtained by sending a request (identified by notice, amendment, or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680.

B. Comments Submitted to the Docket

Comments received may be viewed by going to *http://www.regulations.gov* and following the online instructions to search the docket number for this action. Anyone is able to search the electronic form of all comments received into any of the FAA's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.).

C. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document, may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the Internet, visit *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/*.

Accordingly, the interim rule published July 15, 2016 (81 FR 49158), is adopted as final without change.

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44703 in Washington, DC, on September 21, 2016.

Lirio Liu,

Director, Office of Rulemaking.

[FR Doc. 2016–23121 Filed 9–23–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 553

[Docket No. USA–2015–HQ–0046]

RIN 0702–AA60

Army National Military Cemeteries

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Army is publishing its regulation for the development, operation, maintenance, and administration of the Army National Cemeteries to reflect their statutory name change to the Army National Military Cemeteries and changes in the management structure, to adopt modifications suggested by the Department of the Army Inspector General and approved by the Secretary of the Army, and to implement changes in interment eligibility reflecting changes in law.

DATES: This rule is effective on October 26, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Quackenbush, Army National Military Cemeteries, 703–614–7150.

SUPPLEMENTARY INFORMATION:

A. Executive Summary

I. Purpose of the Regulatory Action

a. This final rule modifies the Army's regulation governing Army National Military Cemeteries, which consist of Arlington National Cemetery and the U.S. Soldiers' and Airmen's Home National Cemetery, to reflect changes in the management structure of the Army National Military Cemeteries created by Army General Orders 2014–74 and 2014–75 and the National Defense Authorization Act for Fiscal Year 2012, Public Law 112–81, section 591 (2011) (adding chapter 446 to title 10); to incorporate modifications to eligibility as enacted by Section 1 to Public Law 114–158, dated 20 May 2016 which amends 38 U.S.C. 2410; to adopt modifications suggested by the Department of the Army Inspector General as approved by the Secretary of the Army; to implement interment, inurnment, and memorialization eligibility restrictions, including those mandated by 10 U.S.C. 985 and 38 U.S.C. 2411; and to prohibit the reservation of gravesites as mandated by 38 U.S.C. 2410a.

b. The legal authority for this regulatory action is section 591 of the National Defense Authorization Act for Fiscal Year 2012, Public Law 112–81 (2011), which added chapter 446 to title 10. Chapter 446 requires the Secretary of the Army to prescribe regulations and policies as may be necessary to administer the Army National Military Cemeteries, and it codifies the role of the Executive Director as the individual responsible for exercising authority, direction, and control over all aspects of the Army National Military Cemeteries. Throughout part 553, the Army replaces references to the Superintendent of the Cemetery, the Adjutant General, and Commanding General, Military District of Washington, with "Executive Director" to reflect the current organizational structure, which was implemented through Army General Orders 2014–74 and 2014–75 and codified in the National Defense Authorization Act of 2012.

II. Summary of and Response to Public Comments

The proposed rule was published in the **Federal Register** on May 11, 2016 (81 FR 29230) for a 60-day comment period. The Department of the Army received fourteen comments from fourteen individuals. Thirteen of the comments addressed section 553.33(c)(8) concerning the use of bicycles in the cemetery. One of the thirteen comments also addressed section 553.33(c)(7) concerning use of the cemetery for physical training. The final comment addressed section 553.33(c)(14) concerning possession of firearms within the cemetery. The Army's responses to these comments are discussed below.

Thirteen comments addressed the updated restrictions for operating bicycles within the cemetery. Arguments were made for opening the cemetery to bicycles for riders' convenience as a thruway between Joint Base Myer-Henderson Hall/Memorial Drive, as an environmentally friendly method for seeing the cemetery, as a more neighborly approach to surrounding Arlington residents, as a better method for visiting distant gravesites, and for the health benefits to be gained from riding bicycles in the cemetery. Several commenters argued that bicycles do not impact the decorum of the cemetery.

The Army disagrees with and rejects these comments for several reasons related to the nature of cemetery operations, decorum, security, and safety.

The cemetery is not intended to serve as a shortcut route for bicyclists commuting to and from other locations. Rather, as an operational cemetery conducting up to 30 funerals a day and hosting official visits from visiting dignitaries on its narrow roads, the primary purpose of these roads are to facilitate funeral processions, military units, official vehicles to include their escorts, and cemetery equipment and vehicles operating in the daily care of the cemetery.

Additionally, while the Army assumes that most riders bear no malice of intent to demonstrate disrespect or violate decorum or decency, bicyclists traversing the cemetery grounds, even at the posted speed limit, can and do impact the decorum of funeral processions and services, which can number up to 30 per day, as cyclists pass along or across these procession routes. These funeral processions include not just the families and mourners, but include caissons drawn by horses, military bands, and military escort elements all travelling at a walking pace. For these services, bus tour operators and vehicles are forced to stop because there is simply not enough room to pass. This ensures proper decorum. Likewise, visitors on foot typically stop and yield to the processions also as a sign of respect. Previous trial periods with bicyclists in the cemetery showed bicyclists did not typically stop for these processions. The cemetery does not have the requisite staff to monitor and enforce this behavior for bicyclists.

There are legitimate safety concerns with bicyclists mixing with pedestrians. Although they are moving under their own power, bicyclists move at a rate typically 10 times faster than most walking paces. Bicyclists passing the 4 million visitors walking along these roads or in open air tour buses pose risks to themselves, pedestrians, and bus passengers. Additionally, bicyclists riding in and around the cemetery are travelling at higher speeds than the funeral processions. Since there are no bike paths on the cemetery grounds, mixing bicyclists with these processions also constitutes a safety hazard.

The comment arguing for public convenience is not supported on its merits. The current route used in the cemetery is 1.2 miles from South Post Chapel to Hwy 110 at Memorial Drive. There is an equally convenient 1.3 mile route around the cemetery from the South Post Chapel along McNair Road, Marshall Road and out the Wright Gate to the bike path along Highway 110 which can bring a rider to the same point on Memorial Drive—a greater distance of only one-tenth of one mile. For those desiring to visit their loved one's grave by bicycle, the new rule still accommodates this ability with no substantive change from current policy. Guests desiring to visit a loved one's grave can still obtain a temporary pass at the Welcome Center just as they do now, and with that pass, ride their bicycles to and from the gravesite.

The Army also notes that tour buses and cars are not allowed free reign to enter the cemetery. For security purposes, they are restricted in where they can go within the cemetery. Moreover, for the same security reasons, they cannot enter without first obtaining a pass from the Welcome Center. With the changes in the new rule, the Army is simply imposing the same security restriction on bicyclists as they do on motorists and tour buses who desire to drive into the cemetery.

Commenters also expressed support for expanding bicycle use and for installing bike racks to accommodate cyclists. The Army notes that there are already bike racks at the Welcome Center for those coming to Arlington via bicycle. On most days there is ample space available on these bike racks.

Another commenter stated that the Army is incorrect in its claim that the National Environmental Protection Act (NEPA) does not apply because the proposed rule would completely ban the ongoing activity of bicycle transportation though the cemetery. The Army believes the commenter's facts are wrong. The rule does not completely ban bicyclists. In fact, it retains the current practice for those wishing to visit a gravesite on bicycle to obtain a pass at the Welcome Center in order to do so. The only substantive change is to not allow transit via the Meigs/Sherman/Schley Drives through the cemetery. However, the Army believes the alternate McNair/Marshall/Hwy 110 bike path route described above still allows the same bicyclists the means to reach Memorial Drive at a negligibly increased distance by bicycle. Therefore, the rule does not significantly alter ongoing activities. The Army determined that implementing the new rule does not individually or cumulatively have any significant environmental consequences. Consequently, the Army's proposed actions are categorically excluded recreational and law enforcement activities and do not require an environmental assessment or environmental impact statement under Army Regulation 200–2.

Another commenter raised the point that the Army should allow physical training runs through the cemetery which would allow time for reflection on those veterans interred in the cemetery while exercising. The commenter considered it an honor to conduct physical training in a VA National Cemetery where the commenter had been previously stationed. The Army does grant exceptions to military units from the Army staff and from Joint Base Myer-Henderson Hall conduct unit level physical training to support this type of reflection on a case-by-case basis. However, the training is always completed early in the morning before the Cemetery is open to visitors. Physical training during operating hours pose a decorum and safety issue. While the Army recognizes that being permitted to exercise at other cemeteries might be permissible and could provide an opportunity for reflection on the sacrifices made by those interred, exercise within the grounds during hours of operation while interments are being conducted does not reflect the decorum desired by the Army. Additionally, unlike most VA cemeteries, Arlington National Cemetery receives over 4 million tourists each year who visit the Tomb of the Unknown Soldier, the Kennedy family gravesites, the Arlington House administered by the National Park Service, and other notable sites. The sheer number of visitors, tour buses, along with the 30 funeral processions which include escort elements, bands, and caissons that occur each day throughout the cemetery grounds do not provide a safe environment conducive to physical training.

The final comment concerned the prohibition of firearms. The commenter argued that Arlington National Cemetery is more analogous to a park than an Army installation and lacks the substantive access control and large security forces typically found on Army installations. The commenter further argued that there is no need to protect sensitive facilities and personnel at the Cemetery. The Army disagrees with this comment. Arlington Cemetery does have a substantial security force, exercises access control and shares the same type of security concerns found with other military facilities. Additionally, the cemetery hosts U.S. distinguished visitors, foreign Heads of State, and other dignitaries for over 3000 wreath laying ceremonies each year at the Tomb of the Unknown Soldier. These funeral processions and official ceremonies require significantly greater security concerns than those found at typical parks cited by the commenter.

In addition to the comments provided by the public above, the final rule also includes three modifications from the draft rule released in the May-July public comment period. Two of the modifications were required to comply with Public Law 114–158, enacted on 20 May 2016 after the draft rule was released for public comment. This new law recently modified eligibility for inurnment at Arlington National Cemetery to include active duty designees as found in the GI Bill Improvement Act of 1977. The third modification was made by the cemetery staff to add clarity to eligibility for interment in the soon to be opened Tomb of Remembrance.

The two modifications required by Public Law were in § 553.1 Definitions, and § 553.13 Eligibility for inurnment in Arlington National Cemetery. The third modification to add clarity to eligibility for interment in the Tomb of Remembrance is captured in § 553.24, Subsequently recovered remains.

B. Regulatory Flexibility Act

The Army has determined that the Regulatory Flexibility Act does not apply because the rule does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

C. Unfunded Mandates Reform Act

The Army has determined that the Unfunded Mandates Reform Act does not apply because the rule does not include a mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or the private sector, of $100 million or more.

D. National Environmental Policy Act

Neither an environmental analysis nor an environmental impact statement under the National Environmental Policy Act is required. The changes made to the prior regulation by this amendment reflect existing policies and does not significantly alter ongoing activities, nor does this amendment constitute a new use of the property.

E. Paperwork Reduction Act

The Army has determined that this rule does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

F. Executive Order 12630 (Government Actions and Interference With Constitutionally Protected Property Rights)

The Army has determined that E.O. 12630 does not apply because the rule does not impair private property rights.

G. Executive Order 12866 (Regulatory Planning and Review) and E.O. 13563 (Improving Regulation and Regulatory Review)

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action" under section 3(f) of Executive Order 12866.

H. Executive Order 13045 (Protection of Children From Environmental Health Risk and Safety Risks)

The Army has determined that according to the criteria defined in E.O. 13045, the requirements of that Order do not apply to this rule.

I. Executive Order 13132 (Federalism)

The Army has determined that, according to the criteria defined in E.O. 13132, the requirements of that Order do not apply to this rule because the rule will not have a substantial effect on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government.

Patrick K. Hallinan,
Executive Director.

List of Subjects in 32 CFR Part 553

Armed forces, Armed forces reserves, Military personnel, Monuments and memorials, Veterans.

■ For the reasons stated in the preamble, the Department of the Army revises 32 CFR part 553 to read as follows:

PART 553—ARMY NATIONAL MILITARY CEMETERIES

Sec.

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553.3 Statutory authorities.
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553.6 Standards for managing Army National Military Cemeteries.
553.7 Arlington Memorial Amphitheater.
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553.12 Eligibility for interment in Arlington National Cemetery.
553.13 Eligibility for inurnment in Arlington National Cemetery Columbarium.
553.14 Eligibility for interment of cremated remains in the Arlington National Cemetery Unmarked Area.
553.15 Eligibility for group burial in Arlington National Cemetery.
553.16 Eligibility for memorialization in an Arlington National Cemetery memorial area.
553.17 Arlington National Cemetery interment/inurnment agreement.
553.18 Eligibility for burial in U.S. Soldiers' and Airmen's Home National Cemetery.
553.19 Ineligibility for interment, inurnment, or memorialization in an Army National Military Cemetery.
553.20 Prohibition of interment, inurnment, or memorialization in an Army National Military Cemetery of persons who have committed certain crimes.
553.21 Findings concerning the commission of certain crimes where a person has not been convicted due to death or flight to avoid prosecution.
553.22 Exceptions to policies for interment, inurnment, or memorialization at Arlington National Cemetery.
553.23 Placement of cremated remains at Army National Military Cemeteries.
553.24 Subsequently recovered remains.
553.25 Disinterments and disinurnments of remains.

553.26 Design of Government-furnished headstones, niche covers, and memorial markers.
553.27 Inscriptions on Government-furnished headstones, niche covers, and memorial markers.
553.28 Private headstones and markers.
553.29 Permission to construct private headstones and markers.
553.30 Inscriptions on private headstones and markers.
553.31 Memorial and commemorative monuments (other than private headstones or markers).
553.32 Conduct of memorial services and ceremonies.
553.33 Visitors rules for Army National Military Cemeteries.
553.34 Soliciting and vending.
553.35 Media.

Authority: 10 U.S.C. 985, 1128, 1481, 1482, 3013, 4721–4726; 24 U.S.C. 295a, 412; 38 U.S.C. 2402 note, 2409– 2411, 2413; 40 U.S.C. 9102.

§ 553.1 Definitions.

As used in this part, the following terms have these meanings:

Active duty. Full-time duty in the active military service of the United States.

(1) This includes:

(i) Active Reserve component duty performed pursuant to title 10, United States Code.

(ii) Service as a cadet or midshipman currently on the rolls at the U.S. Military, U.S. Naval, U.S. Air Force, or U.S. Coast Guard Academies.

(iii) Active duty for operational support.

(iv) Persons whose service has been determined to be active duty service pursuant to section 401 of the GI Bill Improvement Act of 1977 (Pub. L. 95–202; 38 U.S.C. 106 note) as of 20 May 2016 and the remains of that person were not already formally interred or inurned as of 20 May 2016 or that person died on or after 20 May 2016.

(2) This does not include:

(i) Full-time duty performed under title 32, United States Code.

(ii) Active duty for training, initial entry training, annual training duty, or inactive-duty training for members of the Reserve components.

Active duty for operational support (formerly active duty for special work). A tour of active duty for Reserve personnel authorized from military or Reserve personnel appropriations for work on Active component or Reserve component programs. The purpose of active duty for operational support is to provide the necessary skilled manpower assets to support existing or emerging requirements and may include training.

Active duty for training. A category of active duty used to provide structured individual and/or unit training, including on-the-job training, or educational courses to Reserve component members. Included in the active duty for training category are annual training, initial active duty for training, or any other training duty.

Annual training. The minimum period of active duty for training that Reserve members must perform each year to satisfy the training requirements associated with their Reserve component assignment.

Armed Forces. The U.S. Army, Navy, Marine Corps, Coast Guard, Air Force and their Reserve components.

Army National Military Cemeteries. Arlington National Cemetery and the U.S. Soldiers' and Airmen's Home National Cemetery.

Category 4, 5, or 5+ Posts. Category 4, 5, or 5+ posts, including the equivalent classifications as determined by the Department of State that were used prior to 2004 or may be used subsequently.

Child, minor child, permanently dependent child, unmarried adult child.

(1) *Child.*

(i) Natural child of a primarily eligible person, born in wedlock;

(ii) Natural child of a female primarily eligible person, born out of wedlock;

(iii) Natural child of a male primarily eligible person, who was born out of wedlock and:

(A) Has been acknowledged in a writing signed by the male primarily eligible person;

(B) Has been judicially determined to be the male primarily eligible person's child;

(C) Whom the male primarily eligible person has been judicially ordered to support; or

(D) Has been otherwise proved, by evidence satisfactory to the Executive Director, to be the child of the male primarily eligible person

(iv) Adopted child of a primarily eligible person; or

(v) Stepchild who was part of the primarily eligible person's household at the time of death of the individual who is to be interred or inurned.

(2) *Minor child.* A child of the primarily eligible person who

(i) Is unmarried;

(ii) Has no dependents; and

(iii) Is under the age of twenty-one years, or is under the age of twenty-three years and is taking a full-time course of instruction at an educational institution which the U.S. Department of Education acknowledges as an accredited educational institution.

(3) *Permanently dependent child.* A child of the primarily eligible person who

(i) Is unmarried;

(ii) Has no dependents; and

(iii) Is permanently and fully dependent on one or both of the child's parents because of a physical or mental disability incurred before attaining the age of twenty-one years or before the age of twenty-three years while taking a full-time course of instruction at an educational institution which the U.S. Department of Education acknowledges as an accredited educational institution.

(4) *Unmarried adult child.* A child of the primarily eligible person who

(i) Is unmarried;

(ii) Has no dependents; and

(iii) Has attained the age of twenty-one years.

Close relative. The spouse, parents, adult brothers and sisters, adult natural children, adult stepchildren, and adult adopted children of a decedent.

Commemorative monuments. Monuments or other structures or landscape features that serve to honor events in history, units of the Armed Forces, individuals, or groups of individuals that served in the Armed Forces, and that do not contain human remains or mark the location of remains in close proximity. The term does not include memorial markers erected pursuant to § 553.16.

Derivatively eligible person. Any person who is entitled to interment or inurnment solely based on his or her relationship to a primarily eligible person, as set forth in §§ 553.12(b) and § 553.13(b) respectively.

Disinterment. The permanent removal of interred human remains from a particular gravesite.

Disinurnment. The permanent removal of remains from a particular niche.

Executive Director. The person statutorily charged with exercising authority, direction, and control over all aspects of Army National Military Cemeteries.

Federal capital crime. An offense under Federal law for which a sentence of imprisonment for life or the death penalty may be imposed.

Former prisoner of war. A person who is eligible for or has been awarded the Prisoner of War Medal.

Former spouse. See *spouse.*

Government. The U.S. government and its agencies and instrumentalities.

Group burial. Interment in one gravesite of one or more service members on active duty killed in the same incident or location where:

(1) The remains cannot be individually identified; or

(2) The person authorized to direct disposition of subsequently identified remains has authorized their interment with the other service members.

Group remains may contain incidental remains of civilians and foreign nationals.

Inactive-duty training.

(1) Duty prescribed for members of the Reserve components by the Secretary concerned under 37 U.S.C. 206 or any other provision of law.

(2) Special additional duties authorized for members of the Reserve components by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned.

(3) In the case of a member of the Army National Guard or Air National Guard of any State, duty (other than full-time duty) under 32 U.S.C. 316, 502, 503, 504 or 505 or the prior corresponding provisions of law.

(4) This term does not include:

(i) Work or study performed in connection with correspondence courses,

(ii) Attendance at an educational institution in an inactive status, or

(iii) Duty performed as a temporary member of the Coast Guard Reserve.

Interment. The ground burial of casketed or cremated human remains.

Inurnment. The placement of cremated human remains in a niche.

Media. Individuals and agencies that print, broadcast, or gather and transmit news, and their reporters, photographers, and employees.

Memorial marker. A headstone used to memorialize a service member or veteran whose remains are unavailable for reasons listed in § 553.16.

Memorial service or ceremony. Any activity intended to honor the memory of a person or persons interred, inurned, or memorialized in the Army National Military Cemeteries. This term includes private memorial services, public memorial services, public wreath laying ceremonies, and official ceremonies.

Minor child. See *child.*

Niche. An aboveground space constructed specifically for the placement of cremated human remains.

Official ceremony. A memorial service or ceremony approved by the Executive Director in which the primary participants are representatives of the Government, a State government, a foreign government, or an international organization authorized by the U.S. Department of State to participate in an official capacity.

Parent. A natural parent, a stepparent, a parent by adoption, or a person who for a period of not less than one year stood *in loco parentis,* or was granted legal custody by a court decree or statutory provision.

Permanently dependent child. See *child.*

Person authorized to direct disposition. The person primarily entitled to direct disposition of human remains and who elects to exercise that entitlement. Determination of such entitlement shall be made in accordance with applicable law and regulations.

Personal representative. A person who has legal authority to act on behalf of another through applicable law, order, and regulation.

Primarily eligible person. Any person who is entitled to interment or inurnment based on his or her service as specified in § 553.12(a) and § 553.13(a) respectively.

Primary next of kin. (1) In the absence of a valid written document from the decedent identifying the primary next of kin, the order of precedence for designating a decedent's primary next of kin is as follows:

(i) Spouse, even if a minor;

(ii) Children;

(iii) Parents;

(iv) Siblings, to include half-blood and those acquired through adoption;

(v) Grandparents;

(vi) Other next of kin, in order of relationship to the decedent as determined by the laws of the decedent's state of domicile.

(2) Absent a court order or written document from the deceased, the precedence of next of kin with equal relationships to the decedent is governed by seniority (age), older having higher priority than younger. Equal relationship situations include those involving divorced parents of the decedent, children of the decedent, and siblings of the decedent.

Private headstones or markers. A headstone or individual memorial marker provided at private expense, in lieu of a headstone or individual memorial marker furnished by the Government.

Private memorial service. A memorial service or ceremony conducted at the decedent's gravesite, memorial headstone, or niche.

Public memorial service. A ceremony conducted by members of the public at a historic site in an Army National Military Cemetery.

Public wreath-laying ceremony. A ceremony in which members of the public, assisted by the Tomb Guards, present a wreath or similar memento at the Tomb of the Unknown Soldier.

Reserve component. The Army Reserve, the Navy Reserve, the Marine Corps Reserve, the Air Force Reserve, the Coast Guard Reserve, the Army National Guard of the United States, and the Air National Guard of the United States.

Spouse, former spouse, subsequently remarried spouse.

(1) *Spouse.* A person who is legally married to another person.

(2) *Former spouse.* A person who was legally married to another person at one time but was not legally married to that person at the time of one of their deaths.

(3) *Subsequently remarried spouse.* A derivatively eligible spouse who was married to the primarily eligible person at the time of the primarily eligible person's death and who subsequently remarried another person.

State capital crime. Under State law, the willful, deliberate, or premeditated unlawful killing of another human being for which a sentence of imprisonment for life or the death penalty may be imposed.

Subsequently recovered remains. Additional remains belonging to the decedent that are recovered or identified after the decedent's interment or inurnment.

Subsequently remarried spouse. See *spouse.*

Unmarried adult child. See *child.*

Veteran. A person who served in the U.S. Armed Forces and who was discharged or released under honorable conditions.

§ 553.2 Purpose.

This part specifies the authorities and assigns the responsibilities for the development, operation, maintenance, and administration of the Army National Military Cemeteries.

§ 553.3 Statutory authorities.

(a) *Historical.* Act of July 17, 1862, Sec. 18, 12 Stat. 594, 596; Act of February 22, 1867, Ch. 61, 14 Stat. 399; and the National Cemeteries Act of 1973, Public Law 93–43, 87 Stat. 75 (1973). The National Cemeteries Act established the National Cemetery System, which primarily consists of national cemeteries transferred from the management authority of the Department of the Army to the (now) Department of Veterans Affairs. Section 6(a) of the Act exempted Arlington National Cemetery and the Soldiers' and Airmen's Home National Cemetery from transfer to the National Cemetery System, leaving them under the management authority of the Secretary of the Army.

(b) *Current.* Pursuant to 10 U.S.C. 4721(a), the Secretary of the Army shall develop, operate, manage, oversee, and fund the Army National Military Cemeteries. Section 4721(c) provides that the Army National Military Cemeteries are under the jurisdiction of Headquarters, Department of the Army, and 10 U.S.C. 4721(d) provides that the

Secretary of the Army shall prescribe such regulations and policies as may be necessary to administer the Army National Military Cemeteries. The responsibilities of Headquarters, Department of the Army with regard to the Army National Military Cemeteries are enumerated in 10 U.S.C. 4721–4726 and Army General Orders 2014–74 and 2014–75.

§ 553.4 Scope and applicability.

(a) *Scope.* The development, maintenance, administration, and operation of the Army National Military Cemeteries are governed by this part, Army Regulation 290–5, and Department of the Army Pamphlet 290–5. The development, maintenance, administration, and operation of Army post cemeteries are not covered by this part.

(b) *Applicability.* This part is applicable to all persons on, engaging in business with, or seeking access to or benefits from the Army National Military Cemeteries, unless otherwise specified.

§ 553.5 Maintaining order.

The Executive Director may order the removal from, and bar the re-entry onto, Army National Military Cemeteries of any person who acts in violation of any law or regulation, including but not limited to demonstrations and disturbances as outlined in 38 U.S.C. 2413, and in this part. This authority may not be re-delegated.

§ 553.6 Standards for managing Army National Military Cemeteries.

(a) The Executive Director is responsible for establishing and maintaining cemetery layout plans, including plans setting forth sections with gravesites, memorial areas with markers, and columbaria with niches, and landscape planting plans.

(b) New sections or areas may be opened and prepared for interments or for installing memorial markers only with the approval of the Executive Director.

§ 553.7 Arlington Memorial Amphitheater.

(a) In accordance with 24 U.S.C. 295a:

(1) No memorial may be erected and no remains may be entombed in the Arlington Memorial Amphitheater unless specifically authorized by Congress; and

(2) The character, design, or location of any memorial authorized by Congress for placement in the Amphitheater is subject to the approval of the Secretary of Defense or his or her designee.

(b) The Secretary of Defense or his or her designee will seek the advice of the Commission of Fine Arts in such matters, in accordance with 40 U.S.C. 9102.

(c) Tributes offered for those interred in the Tomb of the Unknown Soldier for placement in the Arlington Memorial Amphitheater display room are not memorials for purposes of this section.

§ 553.8 Permission to install utilities.

(a) The installation of utilities in Army National Military Cemeteries, including but not limited to, telephone and fiber optic lines, electric lines, natural gas lines, water pipes, storm drains, and sanitary sewers, must be authorized by the Executive Director.

(b) Requests for licenses, permits, or easements to install water, gas, or sewer lines, or other utilities or equipment on or across an Army National Military Cemetery or an approach road in which the Government has a right-of-way, fee simple title, or other interest, must be sent to the Executive Director, who will process the request in accordance with Army policy. Requests must include a complete description of the type of license, permit, or easement desired and a map showing the location of the project.

§ 553.9 Assignment of gravesites or niches.

(a) All eligible persons will be assigned gravesites or niches without discrimination as to race, color, sex, religion, age, or national origin and without preference to military grade or rank.

(b) The Army National Military Cemeteries will enforce a one-gravesite-per-family policy. Once the initial interment or inurnment is made in a gravesite or niche, each additional interment or inurnment of eligible persons must be made in the same gravesite or niche, except as noted in paragraph (f) of this section. This includes multiple primarily eligible persons if they are married to each other.

(c) In accordance with 38 U.S.C. 2410A(a)(2) the Secretary of the Army may waive the prohibition in paragraph (b) of this section as the Secretary of the Army deems appropriate.

(d) A gravesite reservation will be honored if it meets the following requirements, unless it is cancelled by the Executive Director:

(1) The gravesite was properly reserved by law before January 1, 1962, and

(2) An eligible person was interred in the reserved gravesite prior to January 1, 2017.

(e) The Executive Director may cancel a gravesite reservation:

(1) Upon determination that a derivatively eligible spouse has remarried;

(2) Upon determination that the reservee's remains have been buried elsewhere or otherwise disposed of;

(3) Upon determination that the reservee desires to or will be interred in the same gravesite with the predeceased, and doing so is feasible; or

(4) Upon determination that the reservee would be 120 years of age and there is no record of correspondence with the reservee within the last two decades.

(f) In cases of reservations meeting the requirements of 38 U.S.C. 2410A note, where more than one gravesite was reserved (on the basis of the veteran's eligibility at the time the reservation was made) and no interment has yet been made in any of the sites, the one-gravesite-per-family policy will be enforced, unless waived by the Executive Director. Gravesite reservations will be honored only if the decedents meet the eligibility criteria for interment in Arlington National Cemetery that is in effect at the time of need, and the reserved gravesite is available.

(g) Where a primarily eligible person has been or will be interred as part of a group burial or has been or will be memorialized in a memorial area at Arlington National Cemetery, the Executive Director will assign a gravesite or niche for interment or inurnment of a derivatively eligible person.

(h) Gravesites or niches shall not be reserved or assigned prior to the time of need.

(i) The selection of gravesites and niches is the responsibility of the Executive Director. The selection of specific gravesites or niches by the family or other representatives of the deceased at any time is prohibited.

§ 553.10 Proof of eligibility.

(a) The personal representative or primary next of kin is responsible for providing appropriate documentation to verify the decedent's eligibility for interment or inurnment.

(b) The personal representative or primary next of kin must certify in writing that the decedent is not prohibited from interment, inurnment, or memorialization under § 553.20 because he or she has committed or been convicted of a Federal or State capital crime or is a convicted Tier III sex offender as defined in 38 U.S.C. 2411.

(c) For service members who die on active duty, a statement of honorable service from a general court martial convening authority is required. If the certificate of honorable service cannot be granted, the service member is ineligible for interment, inurnment, and memorialization pursuant to § 553.19(i).

(d) When applicable, the following documents are required:

(1) Death certificate;

(2) Proof of eligibility as required by paragraphs (e) through (g) of this section;

(3) Any additional documentation to establish the decedent's eligibility (*e.g.*, marriage certificate, birth certificate, waivers, statements that the decedent had no children);

(4) Burial agreement;

(5) Notarized statement that the remains are unavailable for the reasons set forth in § 553.16; and

(6) A certificate of cremation or notarized statement attesting to the authenticity of the cremated human remains and that 100% of the cremated remains received from the crematorium are present. The Executive Director may, however, allow a portion of the cremated remains to be removed by the crematorium for the sole purpose of producing commemorative items.

(7) Any other document as required by the Executive Director.

(e) The following documents may be used to establish the eligibility of a primarily eligible person:

(1) DD Form 214, Certificate of Release or Discharge from Active Duty;

(2) WD AGO 53 or 53–55, Enlisted Record and Report of Separation Honorable Discharge;

(3) WD AGO 53–98, Military Record and Report of Separation Certificate of Service;

(4) NAVPERS–553, Notice of Separation from U.S. Naval Service;

(5) NAVMC 70–PD, Honorable Discharge, U.S. Marine Corps; or;

(6) DD Form 1300, Report of Casualty (required in the case of death of an active duty service member).

(f) In addition to the documents otherwise required by this section, a request for interment or inurnment of a subsequently remarried spouse must be accompanied by:

(1) A notarized statement from the new spouse of the subsequently remarried spouse agreeing to the interment or inurnment and relinquishing any claim for interment or inurnment in the same gravesite or niche.

(2) Notarized statement(s) from all of the children from the prior marriage agreeing to the interment or inurnment of their parents in the same gravesite or niche.

(g) In addition to the documents otherwise required by this section, a request for interment or inurnment of a permanently dependent child must be accompanied by:

(1) A notarized statement as to the marital status and degree of dependency of the decedent from an individual with direct knowledge; and

(2) A physician's statement regarding the nature and duration of the physical or mental disability; and

(3) A statement from someone with direct knowledge demonstrating the following factors:

(i) The deceased lived most of his or her adult life with one or both parents, one or both of whom are otherwise eligible for interment;

(ii) The decedent's children, siblings, or other family members, other than the eligible parent, waive any derivative claim to be interred at Arlington National Cemetery, in accordance with the Arlington National Cemetery Burial Agreement.

(h) Veterans or primary next of kin of deceased veterans may obtain copies of their military records by writing to the National Personnel Records Center, Attention: Military Personnel Records, 9700 Page Avenue St. Louis, Missouri 63132 or using their Web site. All others may request a record by completing and submitting Standard Form 180.

(i) The burden of proving eligibility lies with the party who requests the burial. The Executive Director will determine whether the submitted evidence is sufficient to support a finding of eligibility.

§ 553.11 General rules governing eligibility for interment, inurnment, and memorialization at Arlington National Cemetery.

(a) Only those persons who meet the criteria of § 553.12 or are granted an exception to policy pursuant to § 553.22 may be interred in Arlington National Cemetery. Only those persons who meet the criteria of § 553.13 or are granted an exception to policy pursuant to § 553.22 may be inurned in Arlington National Cemetery. Only those persons who meet the criteria of § 553.14 may be interred in the Arlington National Cemetery Unmarked Area. Only those persons who meet the criteria of § 553.15 may be interred in an Arlington National Cemetery group burial. Only those persons who meet the criteria of § 553.16 may be memorialized in Arlington National Cemetery.

(b) Derivative eligibility for interment or inurnment may be established only through a decedent's connection to a primarily eligible person and not to another derivatively eligible person.

(c) No veteran is eligible for interment, inurnment, or memorialization in Arlington National Cemetery unless the veteran's last period of active duty ended with an honorable discharge. A general discharge under honorable conditions is not sufficient for interment, inurnment or memorialization in Arlington National Cemetery.

(d) For purposes of determining whether a service member has received an honorable discharge, final determinations regarding discharges made in accordance with procedures established by chapter 79 of title 10, United States Code, will be considered authoritative.

(e) The Secretary of the Army has the authority to act on requests for exceptions to the provisions of the interment, inurnment, and memorialization eligibility policies contained in this part. The Secretary of the Army may delegate this authority to the Executive Director on such terms deemed appropriate.

(f) Individuals who do not qualify as a primarily eligible person or a derivatively eligible person, but who are granted an exception to policy to be interred or inurned pursuant to § 553.22 in a new gravesite or niche, will be treated as a primarily eligible person for purposes of this part.

(g) Notwithstanding any other section in this part, memorialization with an individual memorial marker, interment, or inurnment in the Army National Military Cemeteries is prohibited if there is a gravesite, niche, or individual memorial marker for the decedent in any other Government-operated cemetery or the Government has provided an individual grave marker, individual memorial marker or niche cover for placement in a private cemetery.

§ 553.12 Eligibility for interment in Arlington National Cemetery.

Only those who qualify as a primarily eligible person or a derivatively eligible person are eligible for interment in Arlington National Cemetery, unless otherwise prohibited as provided for in §§ 553.19–553.20, provided that the last period of active duty of the service member or veteran ended with an honorable discharge.

(a) *Primarily eligible persons.* The following are primarily eligible persons for purposes of interment:

(1) Any service member who dies on active duty in the U.S. Armed Forces (except those service members serving on active duty for training only), if the General Courts Martial Convening Authority grants a certificate of honorable service.

(2) Any veteran retired from a Reserve component who served a period of active duty (other than for training), is carried on the official retired list, and is entitled to receive military retired pay.

(3) Any veteran retired from active military service and entitled to receive military retired pay.

(4) Any veteran who received an honorable discharge from the Armed Forces prior to October 1, 1949, who was discharged for a permanent physical disability, who served on active duty (other than for training), and who would have been eligible for retirement under the provisions of 10 U.S.C. 1201 had the statute been in effect on the date of separation.

(5) Any veteran awarded one of the following decorations:

(i) Medal of Honor;

(ii) Distinguished Service Cross, Air Force Cross, or Navy Cross;

(iii) Distinguished Service Medal;

(iv) Silver Star; or

(v) Purple Heart.

(6) Any veteran who served on active duty (other than active duty for training) and who held any of the following positions:

(i) President or Vice President of the United States;

(ii) Elected member of the U.S. Congress;

(iii) Chief Justice of the Supreme Court of the United States or Associate Justice of the Supreme Court of the United States;

(iv) A position listed, at the time the person held the position, in 5 U.S.C. 5312 or 5313 (Levels I and II of the Executive Schedule); or

(v) Chief of Mission of a Category 4, 5, or 5+ post if the Department of State classified that post as a Category 4, 5, or 5+ post during the person's tenure as Chief of Mission.

(7) Any former prisoner of war who, while a prisoner of war, served honorably in the active military service, and who died on or after November 30, 1993.

(b) *Derivatively eligible persons.* The following individuals are derivatively eligible persons for purposes of interment who may be interred if space is available in the gravesite of the primarily eligible person:

(1) The spouse of a primarily eligible person who is or will be interred in Arlington National Cemetery. A former spouse of a primarily eligible person is not eligible for interment in Arlington National Cemetery under this paragraph.

(2) The spouse of an active duty service member or an eligible veteran, who was:

(i) Lost or buried at sea, temporarily interred overseas due to action by the Government, or officially determined to be missing in action;

(ii) Buried in a U.S. military cemetery maintained by the American Battle Monuments Commission; or

(iii) Interred in Arlington National Cemetery as part of a group burial (the derivatively eligible spouse may not be buried in the group burial gravesite).

(3) The parents of a minor child or a permanently dependent adult child, whose remains were interred in Arlington National Cemetery based on the eligibility of a parent at the time of the child's death, unless eligibility of the non-service connected parent is lost through divorce from the primarily eligible parent.

(4) An honorably discharged veteran who does not qualify as a primarily eligible person, if the veteran will be buried in the same gravesite as an already interred primarily eligible person who is a close relative, where the interment meets the following conditions:

(i) The veteran is without minor or unmarried adult dependent children;

(ii) The veteran will not occupy space reserved for the spouse, a minor child, or a permanently dependent adult child;

(iii) All other close relatives of the primarily eligible person concur with the interment of the veteran with the primarily eligible person by signing a notarized statement;

(iv) The veteran's spouse waives any entitlement to interment in Arlington National Cemetery, where such entitlement might be based on the veteran's interment in Arlington National Cemetery. The Executive Director may set aside the spouse's waiver, provided space is available in the same gravesite, and all close relatives of the primarily eligible person concur;

(v) Any cost of moving, recasketing, or revaulting the remains will be paid from private funds; and

§ 553.13 Eligibility for inurnment in Arlington National Cemetery Columbarium.

The following persons are eligible for inurnment in the Arlington National Cemetery Columbarium, unless otherwise prohibited as provided for in §§ 553.19–553.20, provided that the last period of active duty of the service member or veteran ended with an honorable discharge.

(a) *Primarily eligible persons.* The following are primarily eligible persons for purposes of inurnment:

(1) Any person eligible for interment in Arlington National Cemetery, as provided for in § 553.12(a).

(2) Any veteran who served on active duty other than active duty for training.

(3) Any member of a Reserve component of the Armed Forces who dies while:

(i) On active duty for training or performing full-time duty under title 32, United States Code;

(ii) Performing authorized travel to or from such active duty for training or full-time duty;

(iii) On authorized inactive-duty training, including training performed as a member of the Army National Guard of the United States or the Air National Guard of the United States; or

(iv) Hospitalized or receiving treatment at the expense of the Government for an injury or disease incurred or contracted while on such active duty for training or full-time duty, traveling to or from such active duty for training or full-time duty, or on inactive-duty training.

(4) Any member of the Reserve Officers' Training Corps of the United States, Army, Navy, or Air Force, whose death occurs while:

(i) Attending an authorized training camp or cruise;

(ii) Performing authorized travel to or from that camp or cruise; or

(iii) Hospitalized or receiving treatment at the expense of the Government for injury or disease incurred or contracted while attending such camp or cruise or while traveling to or from such camp or cruise.

(5) Any citizen of the United States who, during any war in which the United States has been or may hereafter be engaged, served in the armed forces of any government allied with the United States during that war, whose last service ended honorably by death or otherwise, and who was a citizen of the United States at the time of entry into that service and at the time of death.

(6) Commissioned officers, United States Coast and Geodetic Survey (now National Oceanic and Atmospheric Administration) who die during or subsequent to the service specified in the following categories and whose last service terminated honorably:

(i) Assignment to areas of immediate military hazard.

(ii) Served in the Philippine Islands on December 7, 1941.

(iii) Transferred to the Department of the Army or the Department of the Navy under certain statutes.

(7) Any commissioned officer of the United States Public Health Service who served on full-time duty on or after July 29, 1945, if the service falls within the meaning of active duty for training as defined in 38 U.S.C. 101(22) or inactive duty training as defined in 38 U.S.C. 101(23) and whose death resulted from a disease or injury incurred or

aggravated in line of duty. Also, any commissioned officer of the Regular or Reserve Corps of the Public Health Service who performed active service prior to July 29, 1945 in time of war; on detail for duty with the Armed Forces; or while the service was part of the military forces of the United States pursuant to Executive order of the President.

(8) Any Active Duty Designee as defined in this part.

(b) *Derivatively eligible persons.* Those connected to an individual described in paragraph (a) of this section through a relationship described in § 553.12(b). Such individuals may be inurned if space is available in the primarily eligible person's niche.

§ 553.14 Eligibility for interment of cremated remains in the Arlington National Cemetery Unmarked Area.

(a) The cremated remains of any person eligible for interment in Arlington National Cemetery as described in § 553.12 may be interred in the designated Arlington National Cemetery Unmarked Area.

(b) Cremated remains must be interred in a biodegradable container or placed directly into the ground without a container. Cremated remains are not authorized to be scattered at this site or at any location within Arlington National Cemetery.

(c) There will be no headstone or marker for any person choosing this method of interment. A permanent register will be maintained by the Executive Director.

(d) Consistent with the one-gravesite-per-family policy, once a person is interred in the Unmarked Area, any derivatively eligible persons and spouses must be interred in this manner. This includes spouses who are also primarily eligible persons. No additional gravesite, niche, or memorial marker in a memorial area will be authorized.

§ 553.15 Eligibility for group burial in Arlington National Cemetery.

(a) The Executive Director may authorize a group burial in Arlington National Cemetery whenever several people, at least one of whom is an active duty service member, die during a military-related activity and not all remains can be individually identified.

(b) Before authorizing a group burial that includes both United States and foreign decedents, the Executive Director will notify the Department of State and request that the Department of State notify the appropriate foreign embassy.

§ 553.16 Eligibility for memorialization in an Arlington National Cemetery memorial area.

(a) With the authority granted by 38 U.S.C. 2409, a memorial marker may be placed in an Arlington National Cemetery memorial area to honor the memory of service members or veterans, who are eligible for interment under § 553.12(a) and:

(1) Who are missing in action;

(2) Whose remains have not been recovered or identified;

(3) Whose remains were buried at sea, whether by the member's or veteran's own choice or otherwise;

(4) Whose remains were donated to science; or

(5) Whose remains were cremated and the cremated remains were scattered without interment or inurnment of any portion of those remains.

(b) When the remains of a primarily eligible person are unavailable for one of the reasons listed in paragraph (a) of this section, and a derivatively eligible person who predeceased the primarily eligible person is already interred or inurned in Arlington National Cemetery, the primarily eligible person may be memorialized only on the existing headstone or on a replacement headstone, ordered with a new inscription. Consistent with the one-gravesite-per-family policy, a separate marker in a memorial area is not authorized.

(c) When a memorial marker for a primarily eligible person is already in place in a memorial area, and a derivatively eligible person is subsequently interred or inurned in Arlington National Cemetery, an inscription memorializing the primarily eligible person will be placed on the new headstone or niche cover. Consistent with the one-gravesite-per-family policy, the memorial marker will then be removed from the memorial area.

§ 553.17 Arlington National Cemetery interment/inurnment agreement.

(a) A derivatively eligible person who predeceases the primarily eligible person may be interred or inurned in Arlington National Cemetery only if the primarily eligible person agrees in writing to be interred in the same gravesite or inurned in the same niche at his or her time of need and that his or her estate shall pay for all expenses related to disinterment or disinurnment of the predeceased person from Arlington National Cemetery if the primarily eligible person is not interred or inurned as agreed.

(b) If the primarily eligible person becomes ineligible for interment or inurnment in Arlington National Cemetery or the personal representative or primary next of kin decides that the primarily eligible person will be interred or inurned elsewhere, the remains of any predeceased person may be removed from Arlington National Cemetery at no cost to the Government.

§ 553.18 Eligibility for burial in U.S. Soldiers' and Airmen's Home National Cemetery.

Only the residents of the Armed Forces Retirement Home are eligible for interment in the U.S. Soldiers' and Airmen's Home National Cemetery. Resident eligibility criteria for the Armed Forces Retirement Home is provided for at 24 U.S.C. 412.

§ 553.19 Ineligibility for interment, inurnment, or memorialization in an Army National Military Cemetery.

The following persons are not eligible for interment, inurnment, or memorialization in an Army National Military Cemetery:

(a) A father, mother, brother, sister, or in-law solely on the basis of his or her relationship to a primarily eligible person, even though the individual is:

(1) Dependent on the primarily eligible person for support; or

(2) A member of the primarily eligible person's household.

(b) A person whose last period of service was not characterized as an honorable discharge (*e.g.*, a separation or discharge under general but honorable conditions, other than honorable conditions, a bad conduct discharge, a dishonorable discharge, or a dismissal), regardless of whether the person:

(1) Received any other veterans' benefits; or

(2) Was treated at a Department of Veterans Affairs hospital or died in such a hospital.

(c) A person who has volunteered for service with the U.S. Armed Forces, but has not yet entered on active duty.

(d) A former spouse whose marriage to the primarily eligible person ended in divorce.

(e) A spouse who predeceases the primarily eligible person and is interred or inurned in a location other than Arlington National Cemetery, and the primarily eligible person remarries.

(f) A divorced spouse of a primarily eligible person.

(g) Otherwise derivatively eligible persons, such as a spouse or minor child, if the primarily eligible person was not or will not be interred or inurned at Arlington National Cemetery.

(h) A service member who dies while on active duty, if the first General

Courts Martial Convening Authority in the service member's chain of command determines that there is clear and convincing evidence that the service member engaged in conduct that would have resulted in a separation or discharge not characterized as an honorable discharge (*e.g.,* a separation or discharge under general but honorable conditions, other than honorable conditions, a bad conduct discharge, a dishonorable discharge, or a dismissal) being imposed, but for the death of the service member.

(i) Animal remains. If animal remains are unintentionally commingled with human remains due to a natural disaster, unforeseen accident, act of war or terrorism, violent explosion, or similar incident, and such remains cannot be separated from the remains of an eligible person, then the remains may be interred or inurned with the eligible person, but the identity of the animal remains shall not be inscribed or identified on a niche, marker, headstone, or otherwise.

§ 553.20 Prohibition of interment, inurnment, or memorialization in an Army National Military Cemetery of persons who have committed certain crimes.

(a) *Prohibition.* Notwithstanding §§ 553.12–553.16, 553.18, and 553.22, pursuant to 10 U.S.C. 985 and 38 U.S.C. 2411, the interment, inurnment, or memorialization in an Army National Military Cemetery of any of the following persons is prohibited:

(1) Any person identified in writing to the Executive Director by the Attorney General of the United States, prior to his or her interment, inurnment, or memorialization, as a person who has been convicted of a Federal capital crime and whose conviction is final (other than a person whose sentence was commuted by the President).

(2) Any person identified in writing to the Executive Director by an appropriate State official, prior to his or her interment, inurnment, or memorialization, as a person who has been convicted of a State capital crime and whose conviction is final (other than a person whose sentence was commuted by the Governor of the State).

(3) Any person found under procedures specified in § 553.21 to have committed a Federal or State capital crime but who has not been convicted of such crime by reason of such person not being available for trial due to death or flight to avoid prosecution. Notice from officials is not required for this prohibition to apply.

(4) Any person identified in writing to the Executive Director by the Attorney General of the United States or by an appropriate State official, prior to his or her interment, inurnment, or memorialization, as a person who has been convicted of a Federal or State crime causing the person to be a Tier III sex offender for purposes of the Sex Offender Registration and Notification Act, who for such crime is sentenced to a minimum of life imprisonment and whose conviction is final (other than a person whose sentence was commuted by the President or the Governor of a State, as the case may be).

(b) *Notice.* The Executive Director is designated as the Secretary of the Army's representative authorized to receive from the appropriate Federal or State officials notification of conviction of capital crimes referred to in this section.

(c) *Confirmation of person's eligibility.* (1) If notice has not been received, but the Executive Director has reason to believe that the person may have been convicted of a Federal capital crime or a State capital crime, the Executive Director shall seek written confirmation from:

(i) The Attorney General of the United States, with respect to a suspected Federal capital crime; or

(ii) An appropriate State official, with respect to a suspected State capital crime.

(2) The Executive Director will defer the decision on whether to inter, inurn, or memorialize a decedent until a written response is received.

§ 553.21 Findings concerning the commission of certain crimes where a person has not been convicted due to death or flight to avoid prosecution.

(a) *Preliminary inquiry.* If the Executive Director has reason to believe that a decedent may have committed a Federal capital crime or a State capital crime but has not been convicted of such crime by reason of such person not being available for trial due to death or flight to avoid prosecution, the Executive Director shall submit the issue to the Army General Counsel. The Army General Counsel or his or her designee shall initiate a preliminary inquiry seeking information from Federal, State, or local law enforcement officials, or other sources of potentially relevant information.

(b) *Decision after preliminary inquiry.* If, after conducting the preliminary inquiry described in paragraph (a) of this section, the Army General Counsel or designee determines that credible evidence exists suggesting the decedent may have committed a Federal capital crime or State capital crime, then further proceedings under this section are warranted to determine whether the decedent committed such crime. Consequently the Army General Counsel or his or her designee shall present the personal representative with a written notification of such preliminary determination and a dated, written notice of the personal representative's procedural options.

(c) *Notice and procedural options.* The notice of procedural options shall indicate that, within fifteen days, the personal representative may:

(1) Request a hearing;

(2) Withdraw the request for interment, inurnment, or memorialization; or

(3) Do nothing, in which case the request for interment, inurnment, or memorialization will be considered to have been withdrawn.

(d) *Time computation.* The fifteen-day time period begins on the calendar day immediately following the earlier of the day the notice of procedural options is delivered in person to the personal representative or is sent by U.S. registered mail or, if available, by electronic means to the personal representative. It ends at midnight on the fifteenth day. The period includes weekends and holidays.

(e) *Hearing.* The purpose of the hearing is to allow the personal representative to present additional information regarding whether the decedent committed a Federal capital crime or a State capital crime. In lieu of making a personal appearance at the hearing, the personal representative may submit relevant documents for consideration.

(1) If a hearing is requested, the Army General Counsel or his or her designee shall conduct the hearing.

(2) The hearing shall be conducted in an informal manner.

(3) The rules of evidence shall not apply.

(4) The personal representative and witnesses may appear, at no expense to the Government, and shall, in the discretion of the Army General Counsel or his or her designee, testify under oath. Oaths must be administered by a person who possesses the legal authority to administer oaths.

(5) The Army General Counsel or designee shall consider any and all relevant information obtained.

(6) The hearing shall be appropriately recorded. Upon request, a copy of the record shall be provided to the personal representative.

(f) *Final determination.* After considering the opinion of the Army General Counsel or his or her designee, and any additional information submitted by the personal representative, the Secretary of the

Army or his or her designee shall determine the decedent's eligibility for interment, inurnment, or memorialization. This determination is final and not appealable.

(1) The determination shall be based on evidence that supports or undermines a conclusion that the decedent's actions satisfied the elements of the crime as established by the law of the jurisdiction in which the decedent would have been prosecuted.

(2) If an affirmative defense is offered by the decedent's personal representative, a determination as to whether the defense was met shall be made according to the law of the jurisdiction in which the decedent would have been prosecuted.

(3) Mitigating evidence shall not be considered.

(4) The opinion of the local, State, or Federal prosecutor as to whether he or she would have brought charges against the decedent had the decedent been available is relevant but not binding and shall be given no more weight than other facts presented.

(g) *Notice of decision.* The Executive Director shall provide written notification of the Secretary's decision to the personal representative.

§ 553.22 Exceptions to policies for interment, inurnment, or memorialization at Arlington National Cemetery.

(a) As a national military cemetery, eligibility standards for interment, inurnment, or memorialization are based on honorable military service. Exceptions to the eligibility standards for new graves are rarely granted. When granted, exceptions are for those persons who have made significant contributions that directly and substantially benefited the U.S. military.

(b) Requests for an exception to the interment or inurnment eligibility policies shall be considered only after the individual's death.

(c) Requests for an exception to the interment or inurnment eligibility policies shall be submitted to the Executive Director and shall include any documents required by the Executive Director.

(d) The primary next of kin is responsible for providing and certifying the authenticity of all documents and swearing to the accuracy of the accounting provided to support the request for exception to the interment or inurnment eligibility policies.

(e) Disapproved requests will be reconsidered only when the personal representative or next of kin submits new and substantive information not previously considered by the Secretary of the Army. Requests for reconsideration shall be submitted directly to the Executive Director. Requests for reconsideration not supported by new and substantive information will be denied by the Executive Director after review and advice from the Army General Counsel or his or her designee. The Executive Director shall notify the personal representative or next of kin of the decision of the reconsideration. The decision by the Secretary of the Army or the Executive Director, as the case may be, is final and not appealable.

(f) Under no circumstances, will exceptions to policies be considered or granted for those individuals prohibited from interment by virtue of § 553.20 or § 553.21.

§ 553.23 Placement of cremated remains at Army National Military Cemeteries.

All cremated remains shall be interred or inurned. The scattering of cremated remains and the burial of symbolic containers are prohibited in Army National Military Cemeteries.

§ 553.24 Subsequently recovered remains.

Subsequently recovered identified remains of a decedent shall be reunited in one gravesite or urn, or as part of a group burial either in an Army National Military Cemetery or other cemetery. Subsequently recovered identified remains may also be interred in the Arlington National Cemetery Tomb of Remembrance. Unidentified remains (which may or may not be comingled) may also be interred in the Arlington National Cemetery Tomb of Remembrance.

§ 553.25 Disinterments and disinurnments of remains.

(a) Interments and inurnments in Army National Military Cemeteries are considered permanent.

(b) Requests for disinterment or disinurnment of individually buried or inurned remains are considered requests for exceptions to this policy, and must be addressed to the Executive Director for decision. The request must include:

(1) A full statement of the reasons for the disinterment or disinurnment of the remains from the personal representative or primary next of kin who directed the original interment or inurnment if still living, or if not, the current personal representative or primary next of kin;

(2) A notarized statement from each living close relative of the decedent that he or she does not object to the proposed disinterment or disinurnment; and

(3) A notarized statement by a person who has personal knowledge of the decedent's relatives stating that the persons giving statements comprise all of the decedent's living close relatives.

(4) An appropriate funding source for the disinterment or disinurnment, as disinterments and disinurnments of individually buried or inurned remains must be accomplished without expense to the Government.

(c) The Executive Director shall carry out disinterments and disinurnments directed by a court of competent jurisdiction upon presentation of a lawful, original court order and after consulting with the Army General Counsel or his or her designee.

(d) Remains interred in a group burial may be disinterred only if, after the completion of identification processing of any subsequently recovered remains, each decedent's remains have not been individually identified and it is determined that available technology is likely to assist in the identification process of the previously interred group remains. Requests for disinterment of group remains must be addressed to the Executive Director by the appropriate Military Department's Secretary or his or her designee for decision. The request must include:

(1) A statement from the Joint Prisoner of War/Missing in Action Accounting Command certifying that subsequent to the interment or inurnment of the decedents, remains have been recovered from the site of the casualty incident, and that the remains of each individual U.S. citizen, legal resident, or former service member have not been previously identified from either the remains originally recovered or from the subsequently recovered portions.

(2) Sufficient circumstantial and anatomical evidence from the Joint Prisoner of War/Missing in Action Accounting Command, which when combined with contemporary forensic or other scientific techniques, would lead to a high probability of individual identification of the interred group remains.

(3) Copies of the Military Department's notification to all the living close relatives of the decedents advising them of the proposed disinterment.

(4) A time period identified by the Joint Prisoner of War/Missing in Action Accounting Command during which it proposes to perform forensic or scientific techniques for individual identification processing.

(5) An anticipated time period as to when the Joint Prisoner of War/Missing in Action Accounting Command will return any unidentified remains to Arlington National Cemetery or will

notify the cemetery that individual identifications of the group remains are complete and no remains will be returned.

(e) Disinterment or disinurnment is not permitted for the sole purpose of splitting remains or permanently keeping any portion of the remains in a location other than Arlington National Cemetery.

(f) Disinterment of previously designated group remains for the sole purpose of individually segregating the group remains is not permitted unless the requirements of paragraph (d) of this section are met.

§ 553.26 Design of Government-furnished headstones, niche covers, and memorial markers.

(a) Headstones and memorial markers shall be white marble in an upright slab design. Flat-type granite markers may be used, at the Executive Director's discretion, when the terrain or other obstruction precludes use of an upright marble headstone or memorial marker.

(b) Niche covers shall be white marble.

(c) The Executive Director shall approve the design of headstones and memorial markers erected for group burials, consistent with the policies of the Secretary of Veterans Affairs.

§ 553.27 Inscriptions on Government-furnished headstones, niche covers, and memorial markers.

(a) Inscriptions on Government-furnished headstones, niche covers, and memorial markers will be made according to the policies and specifications of the Secretary of the Army, consistent with the policies of the Secretary of Veterans Affairs.

(b) No grades, titles, or ranks other than military grades granted pursuant to title 10, United States Code, will be engraved on Government-furnished headstones, niche covers, and memorial markers. Honorary grades, titles, or ranks granted by States, governors, and others shall not be inscribed on headstones, niche covers, or memorial markers.

(c) Memorial markers must include the words "In Memory of" preceding the inscription.

(d) The words "In Memory of" shall not precede the inscription of a decedent whose remains are interred or inurned.

§ 553.28 Private headstones and markers.

(a) Construction and installation of private headstones and markers in lieu of Government-furnished headstones and markers is permitted only in sections of Army National Military Cemeteries in which private memorials and markers were authorized as of January 1, 1947. These headstones or markers must be of simple design, dignified, and appropriate for a military cemetery as determined by the Executive Director.

(b) The design and inscription of a private headstone or marker must be approved by the Executive Director prior to its construction and placement. All private headstones and markers will be designed to conform to the dimensions and profiles specified by the Executive Director and will be inscribed with the location of the gravesite.

(c) Placement of a private headstone or marker is conditional upon the primary next of kin agreeing in writing to maintain it in a manner acceptable to the Government. Should the headstone or marker become unserviceable at any time and the primary next of kin fail to repair or replace it, or if the marker is not updated to reflect all persons buried in that gravesite within 6 months of the most recent burial, the Executive Director reserves the right to remove and dispose of the headstone or marker and replace it with a standard, Government-furnished headstone or marker.

(d) The construction of a headstone or marker to span two gravesites will be permitted only in those sections in which headstones and markers are presently spanning two gravesites and only with the express understanding that in the event both gravesites are not utilized for burials, the headstone or marker will be relocated to the center of the occupied gravesite, if possible. Such relocation must be accomplished at no expense to the Government. The Executive Director reserves the right to remove and dispose of the headstone or marker and to mark the gravesite with a Government-furnished headstone or marker if the personal representative or primary next of kin fails to relocate the headstone or marker as requested by the Executive Director.

(e) Separate headstones or markers may be constructed on a lot (two gravesites) for a service member and spouse, provided that each headstone or marker is set at the head of the gravesite after interment has been made.

(f) At the time a headstone or marker is purchased, arrangements must be made with an appropriate commercial firm to ensure that additional inscriptions will be promptly inscribed following each succeeding interment in the gravesite. Foot markers must be authorized by the Executive Director and may only be authorized when there is no available space for an inscription on the front or rear of a private headstone.

(g) Except as may be authorized for marking group burials, ledger monuments of freestanding cross design, narrow shafts, and mausoleums are prohibited.

§ 553.29 Permission to construct private headstones and markers.

(a) Headstone firms must receive permission from the Executive Director to construct a private headstone or marker for use in Army National Military Cemeteries or to add an inscription to an existing headstone or marker in an Army National Military Cemetery.

(b) Requests for permission must be submitted to the Executive Director and must include:

(1) Written consent from the personal representative or primary next of kin;

(2) Contact information for both the personal representative or primary next of kin and the headstone firm; and

(3) A scale drawing (no less than 1:12) showing all dimensions, or a reproduction showing detailed specifications of design and proposed construction material, finishing, carving, lettering, exact inscription to appear on the headstone or marker, and a trademark or copyright designation.

(c) The Army does not endorse headstone firms but grants permission for the construction of headstones or markers in individual cases.

(d) When using sandblast equipment to add an inscription to an existing headstone or marker, headstone firms shall restore the surrounding grounds in a timely manner as determined by the Executive Director to the condition of the grounds before work began and at no expense to the Government.

§ 553.30 Inscriptions on private headstones and markers.

An appropriate inscription for the decedent will be placed on the headstone or marker in accordance with the dimensions of the stone and arranged in such a manner as to enhance the appearance of the stone. Additional inscriptions may be inscribed following each succeeding interment in the gravesite. All inscriptions will be in accordance with policies established by the Executive Director.

§ 553.31 Memorial and commemorative monuments (other than private headstones or markers).

The placement of memorials or commemorative monuments in Arlington National Cemetery will be carried out in accordance with 38 U.S.C. 2409(b).

§ 553.32 Conduct of memorial services and ceremonies.

(a) The Executive Director shall ensure the sanctity of public and private memorial and ceremonial events.

(b) All memorial services and ceremonies within Army National Military Cemeteries, other than official ceremonies, shall be purely memorial in purpose and may be dedicated only to:

(1) The memory of all those interred, inurned, or memorialized in Army National Military Cemeteries;

(2) The memory of all those who died in the military service of the United States while serving during a particular conflict or while serving in a particular military unit or units; or

(3) The memory of the individual or individuals to be interred, inurned, or memorialized at the particular site at which the service or ceremony is held.

(c) Memorial services and ceremonies at Army National Military Cemeteries will not include partisan political activities.

(d) Private memorial services may be closed to the media and public as determined by the decedent's primary next of kin.

(e) Public memorial services and public wreath-laying ceremonies shall be open to all members of the public to observe.

§ 553.33 Visitors rules for Army National Military Cemeteries.

(a) *Visiting hours.* Visiting hours shall be established by the Executive Director and posted in conspicuous places. No visitor is permitted to enter or remain in an Army National Military Cemetery outside the established visiting hours.

(b) *Destruction or removal of property.* No person shall destroy, damage, mutilate, alter, or remove any monument, gravestone, niche cover, structure, tree, shrub, plant, or other property located within an Army National Military Cemetery.

(c) *Conduct within Army National Military Cemeteries.* Army National Military Cemeteries are a national shrine to the honored dead of the Armed Forces, and certain acts and activities, which may be appropriate elsewhere, are not appropriate in Army National Military Cemeteries. All visitors, including persons attending or taking part in memorial services and ceremonies, shall observe proper standards of decorum and decency while in an Army National Military Cemetery. Specifically, no person shall:

(1) Conduct any memorial service or ceremony within an Army National Military Cemetery without the prior approval of the Executive Director.

(2) Engage in demonstrations prohibited by 38 U.S.C. 2413.

(3) Engage in any orations, speeches, or similar conduct to assembled groups of people, unless such actions are part of a memorial service or ceremony authorized by the Executive Director.

(4) Display any placards, banners, flags, or similar devices within an Army National Military Cemetery, unless first approved by the Executive Director for use in an authorized memorial service or ceremony. This rule does not apply to clothing worn by visitors.

(5) Distribute any handbill, pamphlet, leaflet, or other written or printed matter within an Army National Military Cemetery, except a program approved by the Executive Director to be provided to attendees of an authorized memorial service or ceremony.

(6) Bring a dog, cat, or other animal (other than a service animal or military working dog) within an Army National Military Cemetery. This prohibition does not apply to persons living in quarters located on the grounds of the Army National Military Cemeteries.

(7) Use the cemetery grounds for recreational activities (*e.g.*, physical exercise, running, jogging, sports, or picnics).

(8) Ride a bicycle or similar conveyance in an Army National Military Cemetery, except with a proper pass issued by the Executive Director to visit a gravesite or niche. An individual visiting a relative's gravesite or niche may be issued a temporary pass by the Executive Director to proceed directly to and from the gravesite or niche on a bicycle or similar vehicle or conveyance.

(9) Operate a musical instrument, a loudspeaker, or an audio device without a headset within an Army National Military Cemetery.

(10) Drive any motor vehicle within an Army National Military Cemetery in excess of the posted speed limit.

(11) Park any motor vehicle in any area of an Army National Military Cemetery designated as a no-parking area.

(12) Leave any vehicle in the Arlington National Cemetery Visitors' Center parking area or Soldiers' and Airmen's Home National Cemetery visitors' parking area more than thirty minutes outside of established visiting hours or anywhere else in an Army National Military Cemetery outside of established visiting hours.

(13) Consume or serve alcoholic beverages without prior written permission from the Executive Director.

(14) Possess firearms without prior written permission from the Executive Director. This prohibition does not apply to law enforcement and military personnel in the performance of their official duties. In accordance with locally established policy, military and law enforcement personnel may be required to obtain advance permission from the Executive Director of the Army National Military Cemeteries prior to possessing firearms on the property of an Army National Military Cemetery.

(15) Deposit or throw litter or trash on the grounds of the Army National Military Cemeteries.

(16) Engage in any disrespectful or disorderly conduct within an Army National Military Cemetery.

(d) *Vehicular traffic.* All visitors, including persons attending or taking part in memorial services and ceremonies, will observe the following rules concerning motor vehicle traffic within Arlington National Cemetery:

(1) Visitors arriving by car and not entitled to a vehicle pass pursuant to paragraph (d)(2) of this section are required to park their vehicles in the Visitors' Center parking area or at a location outside of the cemetery.

(2) Only the following categories of vehicles may be permitted access to Arlington National Cemetery roadways and issued a permanent or temporary pass from the Executive Director:

(i) Official Government vehicles being used on official Government business.

(ii) Vehicles carrying persons on official Cemetery business.

(iii) Vehicles forming part of an authorized funeral procession and authorized to be part of that procession.

(iv) Vehicles carrying persons visiting the Arlington National Cemetery gravesites, niches, or memorial areas of relatives or loved ones interred, inurned, or memorialized within Arlington National Cemetery.

(v) Arlington National Cemetery and National Park Service maintenance vehicles.

(vi) Vehicles of contractors who are authorized to perform work within Arlington National Cemetery.

(vii) Concessionaire tour buses authorized by the Executive Director to operate in Arlington National Cemetery.

(viii) Vehicles of employees of ANMC as authorized by the Executive Director.

§ 553.34 Soliciting and vending.

The display or distribution of commercial advertising to or solicitation of business from the public is strictly prohibited within an Army National Military Cemetery, except as authorized by the Executive Director.

§ 553.35 Media.

All officials and staff of the media are subject to the Visitors Rules enumerated in § 553.33 and shall comply with the Department of the Army's media policy.

[FR Doc. 2016–23087 Filed 9–23–16; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0894]

Drawbridge Operation Regulation; Sacramento River, Sacramento, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Tower Drawbridge across the Sacramento River, mile 59.0, at Sacramento, CA. The deviation is necessary to allow the community to participate in the Juvenile Diabetes Research Foundation (JDRF) One Walk event. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

DATES: This deviation is effective from 10 a.m. to 11 a.m. on October 2, 2016.

ADDRESSES: The docket for this deviation, [USCG–2016–0894], is available at *http://www.regulations.gov.* Type the docket number in the "SEARCH" box and click "SEARCH". Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, email *David.H.Sulouff@uscg.mil.*

SUPPLEMENTARY INFORMATION: California Department of Transportation has requested a temporary change to the operation of the Tower Drawbridge, mile 59.0, over Sacramento River, at Sacramento, CA. The vertical lift bridge navigation span provides a vertical clearance of 30 feet above Mean High Water in the closed-to-navigation position. The draw operates as required by 33 CFR 117.189(a). Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position from 10 a.m. to 11 a.m. on October 2, 2016, to allow the community to participate in the JDRF One Walk event. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 21, 2016.

D.H. Sulouff,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2016–23211 Filed 9–23–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0892]

Drawbridge Operation Regulation; Rancocas Creek, Burlington, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Riverside-Delanco/S.R. 543 Bridge across the Rancocas Creek, mile 1.3, at Burlington, NJ. The deviation is necessary to facilitate repairs to the bridge fender system. This deviation allows the bridge to remain in the closed-to-navigation position.

DATES: The deviation is effective from 7 a.m. on Monday, October 3, 2016, to 3:30 p.m. on Monday, October 31, 2016.

ADDRESSES: The docket for this deviation, [USCG–2016–0892] is available at *http://www.regulations.gov.* Type the docket number in the "SEARCH" box and click "SEARCH". Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Mickey Sanders, Bridge Administration Branch Fifth District, Coast Guard, telephone 757–398–6587, email *Mickey.D.Sanders2@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Burlington County Bridge Commission, who owns and operates the Riverside-Delanco/S.R. 543 Bridge, across the Rancocas Creek, mile 1.3, at Burlington, NJ, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.745, to repair the bridge fender system.

Under this temporary deviation, the bridge will remain in the closed-to-navigation position and will open on signal, if at least one hour notice is given, Monday through Friday, from 7 a.m. to 3:30 p.m., from October 3, 2016, through October 31, 2016. At all other times the bridge will operate per 33 CFR 117.745(b). The bridge is a swing bridge and has a vertical clearance in the closed-to-navigation position of 4 feet above mean high water.

Rancocas Creek is mostly used by recreational vessels. The Coast Guard has carefully considered the nature and volume of vessel traffic on the waterway in publishing this temporary deviation.

Vessels able to pass through the bridge in the closed position may do so at any time. The bridge will be able to open for emergencies and there is no immediate alternate route for vessels unable to pass through the bridge in the closed position. The Coast Guard will also inform the users of the waterway through our Local Notice and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 21, 2016.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2016–23090 Filed 9–23–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0885]

RIN 1625–AA00

Safety Zone; Arkansas River, Little Rock, AR

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all waters of the Arkansas River beginning at mile marker 118.6 and ending at mile marker 119.6. The safety zone is necessary to protect persons, property, and infrastructure from potential damage and safety hazards associated with the demolition of the Broadway Bridge. This rulemaking would impose a speed restriction and prohibit persons and vessels from entering the safety zone area during certain operations unless authorized by the Captain of the Port Memphis or a designated representative.

DATES: This rule is effective from 7 a.m. on October 1, 2016 through 10 p.m. on November 1, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–0885 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Todd Manow, Sector Lower Mississippi River Prevention Department, U.S. Coast Guard; telephone 901–521–4813, email *Todd.M.Manow@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. Although the Coast Guard received initial notification of this planned bridge demolition in February of the previous year, the dates of each phase of demolition were not finalized and submitted until August 29, 2016. Immediate action is needed to respond to potential safety hazards related to a bridge demolition on or over this navigable waterway. It is impracticable and contrary to the public interest to publish an NPRM because we must establish this safety zone by October 1, 2016.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to respond to the potential safety hazards associated with demolition of the Broadway Bridge.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The COTP has determined that potential hazards associated with a bridge demolition starting October 1, 2016 will be a safety concern for anyone desiring to transit this section of the Arkansas River. This rule is needed to protect personnel, vessels, and infrastructure in the navigable waters within the safety zone while bridge demolition is occurring.

IV. Discussion of the Rule

This rule establishes a safety zone from 7 a.m. on October 1, 2016 through 10 p.m. on November 1, 2016. The safety zone will cover all navigable waters within one half mile on either side of the Broadway Bridge. Vessels will be prohibited from entering the safety zone from 30 minutes prior to, until 30 minutes after, any blasting or large-scale removal operation that takes place on the Broadway Bridge; designated representatives will be on-scene to stop or reroute traffic during these evolutions. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. During the entire effective period of this safety zone, regardless of operations, all vessel traffic will be required to maintain slowest speeds for safe navigation; marker buoys will be placed informing waterway users of a no-wake zone. This safety zone is intended to protect personnel, vessels, and infrastructure in these navigable waters while the bridge is being demolished.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size and location of the safety zone, a one-mile section of the Arkansas River in the vicinity of Little Rock, AR. Although in effect from October 1, 2016 until November 1, 2016, traffic will only be excluded from this safety zone from 30 minutes before until 30 minutes after any blasting or large-scale removal operation that takes place on the Broadway Bridge. During periods of non-exclusion, vessel traffic will be allowed to transit at slowest speeds for safe navigation through this safety zone. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C.

605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a month-long safety zone limiting vessel speed and intermittently prohibiting entry into a one-mile area of the Arkansas River adjacent to the Broadway Bridge during demolition operations. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Temporary § 165.35T08–0885 is added to read as follows:

§ 165.35T08–0885 Safety Zone; Arkansas River; Little Rock, AR.

(a) *Location.* All waters of the Arkansas River beginning at mile marker 118.6 and ending at mile marker 119.6 in the vicinity of Little Rock, AR.

(b) *Periods of enforcement.* This temporary safety zone will be enforced from 7 a.m. on October 1, 2016 through 10 p.m. on November 1, 2016.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this area during blasting or large-scale removal operations is prohibited unless authorized by the COTP or a designated representative. All persons and vessels permitted to deviate from the safety zone requirements, as well as enter the restricted area must transit at the slowest safe speed and comply with all lawful directions issued by the COTP or a designated representative.

(2) Buoys marked "No-Wake" will be placed along the navigation channel while this safety zone is in effect.

(3) Persons or vessels requiring entry into or passage through this safety zone during prohibited entry periods must request permission from the COTP or a designated representative. They may be contacted on VHF Channel 16 or at 1–800–777–2784.

(4) A "designated representative" of the COTP is any Coast Guard commissioned, warrant, or petty officer, or a Federal, State, or local law enforcement officer designated by the COTP to act on his behalf.

(d) *Informational broadcasts.* The COTP Memphis or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone, as well as any changes in the dates and times of enforcement.

Dated: September 20, 2016.

J.L. Adams,

Lieutenant Commander, U.S. Coast Guard, Acting Captain of the Port, Memphis, Tennessee.

[FR Doc. 2016–23122 Filed 9–23–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

RIN 0596–AD00

Sale and Disposal of National Forest System Timber; Forest Products for Traditional and Cultural Purposes

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: The USDA Forest Service is implementing regulations under the Food, Conservation, and Energy Act of 2008 (hereinafter the "2008 Farm Bill"). This rule provides for the provision of trees, portions of trees, or forest products from National Forest System lands, free of charge, to federally recognized Indian tribes (Indian tribes) for traditional and cultural purposes. This rule implements section 8105 of the 2008 Farm Bill.

DATES: This rule is effective October 26, 2016.

ADDRESSES: Information on this final rule may be obtained via written request addressed to Director, Forest Management Staff, USDA Forest Service, Mail Stop 1103, 1400 Independence Avenue SW., Washington, DC 20250 or by email to *FarmBillForestProductsRule@fs.fed.us.* The public may inspect comments previously received at the Office of the Director, Forest Management Staff, Sidney Yates Building, Third Floor SW Wing, 201 14th Street SW., Washington, DC or via the world wide web/Internet at *http://www.fs.fed.us/forestmanagement/traditional_cultural/index.shtml.* Visitors are encouraged to call ahead to 202–205–1766 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Joe Reddan, Assistant Director, Forest Products, 202–557–6591 or Sharon Nygaard-Scott, Forest Service, Forest Management Staff, 202–205–1766, during normal business hours. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

I. Background

The Forest Service is issuing this final rule to implement section 8105 of the 2008 Farm Bill (section 8105). Section 8105 has also been codified in Title 25 of the U.S. Code, chapter 32A—Cultural and Heritage Cooperation Authority (25 U.S.C. 3055—Forest Products for Traditional and Cultural Purposes). Subject to certain statutory limitations, section 8105 allows the Secretary of Agriculture to provide Indian tribes with trees, portions of trees, or forest products for traditional and cultural purposes. In this preamble to the final rule, the term "forest products" is used as a shorthand for "trees, portions of trees, or forest products". Specifically, section 8105(a) provides that the Secretary may provide free of charge to Indian tribes any trees, portions of trees, or forest products from National Forest System land for traditional and cultural purposes.

However, pursuant to section 8105(b), Indian tribes are prohibited from using any trees, portions of trees, or forest products provided under section 8105(a) for commercial purposes. While the 2008 Farm Bill does not define commercial purposes, it does define Indian tribe and traditional and cultural purpose. Section 8102(5) defines Indian tribe as any Indian or Alaska Native tribe, band, nation, pueblo, village, or other community the name of which is included on a list published by the Secretary of the Interior pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1). In addition, per section 8102(9), traditional and cultural purpose, with respect to a definable use, area, or practice, means that the use, area, or practice is identified by an Indian tribe as traditional or cultural because of the long-established significance or ceremonial nature of the use, area, or practice to the Indian tribe.

On December 2, 2009, the Forest Service published an Interim Directive (ID) to the Forest Service Handbook (FSH) 2409.18 to implement section 8105 of the 2008 Farm Bill. The ID was reissued, without change, four times (effective March 8, 2011 (ID 2409.18–2011–1), June 7, 2012 (ID 2409.18–2012–2), December 6, 2013 (ID 2409.18–2013–3), and May 14, 2015 (ID 2409.18–2015–1), and remains in effect until November 14, 2016. This final rule will replace the Interim Directive, which will be entered in FSH 2409.18, chapter 80, section 82.5.

The proposed rule was published in the **Federal Register** on July 31, 2014 (79 FR 44327), and a comment period ensued over a period of 60 days. The Forest Service received 12 written comments through 10 letters, and all were considered in the development of this final rule.

This rule establishes Forest Service policy for providing Indian tribes with trees, portions of trees, or forest products for traditional and cultural purposes. Based on the comments received on the ID during formal government-to-government consultation, and those received during the proposed rulemaking, as well as the Agency's experience using the ID to implement section 8105 over the last 7 years, the Agency is now publishing this final rule.

This final rule adds § 223.15 to 36 CFR part 223, subpart A. Section 223.15(a) authorizes Regional Foresters or designated Forest Officers to provide trees, portions of trees, or forest products to Indian tribes free of charge for traditional and cultural purposes. Section 223.15(b) restates the 2008 Farm Bill's statutory definitions of "Indian tribe" and "traditional and cultural purpose," and includes the Forest Services' regulatory definition of "tribal officials."

Sections 223.15(c) and (d) describe who can request trees, portions of trees, or forest products for traditional and cultural purposes, and where those requests should be directed. Tribal officials should submit requests for trees, portions of trees, or forest products to their local Forest Service District Ranger's office for routing to the appropriate designated authority. In addition, tribal officials are encouraged to explain their requests to the Regional Forester or designated Forest Officer, and if necessary, how the request fits a traditional and cultural purpose.

A designated Forest Officer is an individual whom the Regional Forester has granted written authority to provide products under § 223.15. Currently, there is no limitation on the number of requests or authorizations per unit of a forest product or the number of requests or authorizations per Indian tribe. There is currently no limitation on the amount of trees, portions of trees, or forest products that can be requested at any one time. However, Forest Officers cannot grant materials in excess of the value limitations at § 223.15(e) in any given fiscal year.

Section 223.15(f) explains that the Forest Service may condition or deny requests for trees, portions of trees, or forest products under § 223.15. Finally, § 223.15(g) provides that all decisions made under § 223.15 must comply with the National Forest Management Act, relevant land management plans, the

National Environmental Policy Act, the Endangered Species Act, and all other applicable laws and regulations, and are subject to tribal treaty and other reserved rights and the savings provisions of the Cultural and Heritage Cooperation Authority (25 U.S.C. 8107(b)). The Forest Service will do its best to process requests received in a reasonable period of time, in light of these statutory and regulatory requirements.

II. Formal Government-to-Government Consultation

After issuance of the December 2, 2009, Interim Directive (ID 2409.18–2009–2), the Forest Service formally entered into consultation with Indian tribes, with the Regional Foresters extending invitations to Indian tribes by May 1, 2010. This consultation was conducted under Executive Order (EO) 13175, *Consultation and Coordination with Indian Tribal Governments.* Indian tribes were provided the ID to FSH 2409.18, and were invited to consult on proposed changes to 36 CFR part 223. Government-to-government consultation occurred over a period of at least 120 days, through September 1, 2010.

Regional Foresters were directed to invite all federally recognized Indian tribes in their Region to consult. In addition, they were directed to invite any federally recognized Indian tribes who have expressed a historical connection to National Forest System lands in their Region, even if they no longer reside there. To make the consultation more effective, the Forest Service provided Indian tribes with a question and answer document describing the Interim Directive and Forest Services' intent to implement section 8105 of the 2008 Farm Bill through proposed changes to 36 CFR part 223. Recommendations from the Indian tribes have been incorporated, as appropriate, into this final rule.

III. Summary of Comments and Responses

The Forest Service received 12 comments in response to the proposed rule, several of which were similar in scope and nature. A summary of the comments and the Agency's responses and actions taken to the comments follow.

Savings Provisions comment: Three commenters expressed concern that the proposed rule did not incorporate the savings provisions at 25 U.S.C. 3057(b), which protect existing tribal treaty and other reserved rights, as well as agreements between the Forest Service and an Indian tribe. Section 8105 has been codified in 25 U.S.C. 3055—Forest Products for Traditional and Cultural Purposes. The savings provisions at 25 U.S.C. 3057(b) apply to forest products for traditional and cultural purposes. These savings provisions state that:

Nothing in the chapter—

(1) diminishes or expands the trust responsibility of the United States to Indian tribes, or any legal obligation or remedy resulting from that responsibility;

(2) alters, abridges, repeals, or affects any valid agreement between the Forest Service and an Indian tribe;

(3) alters, abridges, diminishes, repeals, or affects any reserved or other right of an Indian tribe; or

(4) alters, abridges, diminishes, repeals, or affects any other valid existing right relating to National Forest System land or other public land.

Savings Provisions response: The Forest Service has revised § 223.15(g) of the final rule to incorporate the savings provisions codified at 25 U.S.C. 3057(b). The revised § 223.15(g) states: All decisions made under this section must comply with the National Forest Management Act, relevant land management plans, the National Environmental Policy Act, the Endangered Species Act, all other applicable laws and regulations, and are subject to tribal treaty and other reserved rights and the savings provisions of the Cultural and Heritage Cooperation Authority (25 U.S.C. 3057(b)).

Additionally, the authority citation under part 223 now includes references to both 25 U.S.C. 3055 and 3057.

Prioritized Use and Access comment: One commenter proposed that the collection of forest products for traditional and cultural purposes be prioritized over other uses and that traditional gathering areas be closed to other uses. The commenter indicated that frequently the collection of forest materials occurs immediately preceding a traditional or religious ceremony and requested assurance that access to the traditional resources be prioritized and allowed, regardless of the situation or season.

Prioritized Use and Access response: Authorized timeframes for gathering, prioritization over other uses and needs, and access to specific gathering areas may vary by request. The Forest Service is responsible for balancing requests made under section 8105 of the 2008 Farm Bill with other planned, possible, and mandated uses in accordance with its mandate to manage the national forests for multiple uses (16 U.S.C. 528–531). This rule provides one path for collection of forest products, but prioritization of the various uses and purposes of forest products and access to National Forest System lands are outside the scope of this rule. Instead, the Forest Service determines how to balance competing demands for forest products and land use when revising or amending land management plans using the National Forest System Land Management Planning process (36 CFR part 219). The planning process requires responsible officials to actively engage stakeholders, the public, and federally recognized Indian tribes using collaborative processes where feasible and appropriate (36 CFR 219.4). Proposed individual actions and projects subject to the NEPA requirements also require opportunities for public participation and comment (36 CFR 220.4).

Indian tribes are encouraged to participate in these processes and to work with and regularly communicate to local Forest Service Officials the location of forest products used for traditional and cultural purposes. Local Forest Service Officers will then be aware of potential gathering areas and times when planning projects to mitigate potential conflicting activities and requests. Information regarding the locations of resources shared with Forest Service officials are protected from sharing by the Prohibition on Disclosure (25 U.S.C. 3056). Assessment and determination for priority of use and access to areas will be made at the Regional, National Forest, or local Ranger District levels as appropriate based on local considerations, land management plans, needs, and consultation with local Indian tribes.

This rule does not designate gathering areas. Section 223.15(f) of the rule authorizes, however, denials of or the placing of conditions on requests for access to gather. The reasons for the denials or conditions include, but are not limited to:

(1) Protecting public health and safety;

(2) Preventing interference with Forest Service and/or commercial operations;

(3) Complying with Federal and State laws and regulations;

(4) Ensuring sustainability; or

(5) Otherwise protecting National Forest System land and resources.

Adoption of Region 5 Policy as the National Rule comment: One commenter represents an Indian Tribe within the State of California that has been using the existing Region 5 Traditional Gathering Policy. The Indian tribe is satisfied with the policy and has recommended that this policy be used as a model and applied nationwide. The policy referenced by the commenter exists as a Regional Supplement to the Forest Service Manual (FS Region 5, FSM 1500, ch. 1560, Amendment No: 1500–2007–1) which sets out direction on traditional gathering policy within the Region to promote consistency between Forest Service and Bureau of Land Management in collaboration with local tribal communities.

Adoption of Region 5 Policy as the National Rule response: Regional Forest Service and tribal interests, needs, and agreements may vary by location, tradition, culture, and practice. Forest Service Regions have the opportunity to supplement this rule, consistent with the policy established herein, for best use in their area of administration. The Region 5 policy was developed through collaboration and interests specific to parties in the Region 5 area. Forest Service Region 9 also has a document for use that includes considerations and direction for application within FS Region 9 (*Tribal Relations Strategic Framework for the Eastern Region, Northeastern Area State & Private Forestry, and Northern Research Station—2015).* While the sharing of direction and guidance on this topic is appropriate between Regions, the Regions may implement this rule through supplements that are consistent with the rule and that meet the particular needs of a Region based on applicable laws, tribal treaty or other reserved rights, the parties involved, and other local needs. Any new supplements must be consistent with the rule. Any existing Regional supplements or policies should continue to be implemented in accordance with § 223.15(g). The Region 5 Traditional Gathering Policy will not be adopted as Agency-wide direction in this rule.

Requests by Individuals comment: One commenter sought clarification as to whether this rule allows individual tribal members to request trees, portions of trees, or forest products for traditional and cultural purposes, or whether such requests must be submitted by tribal officials. Section 8105 of the 2008 Farm Bill states, "the Secretary may provide free of charge to Indian tribes any trees, portions of trees, or forest products from National Forest System land for traditional and cultural purposes." Section 8102 expressly defines the terms "Indian" and "Indian Tribe" separately. The term "Indian" references an individual member of an Indian tribe. As defined in section 8102, the term "Indian Tribe" references a "tribe, band, nation, pueblo, village, or other community" which is included on the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1).

Requests by Individuals response: For purposes of this rule, authorization is limited to government (Forest Service)-to-government (Indian tribe), rather than government-to-individual, provision of trees, portions of trees, or forest products. Tribal officials should submit requests on behalf of the Indian tribe. Individual members of federally recognized Indian tribes should coordinate requests through their tribal officials. Individual members of federally recognized Indian tribes may also use existing provisions at 36 CFR part 223, subpart A, which authorize free-use of trees, portions of trees, or forest products to individuals, subject to limitations or circumstances as stated in the regulations.

Scale of detail for requested material comment: One commenter sought clarification as to whether requests are required to include details as to the type and quantity of material being requested. The 2008 Farm Bill does not specify a process for requesting materials authorized within section 8105.

Scale of detail for requested material response: It is important that the requests for trees, portions of trees, and forest products under this rule be complete, in order to prevent any misunderstandings, or delays in processing, and to provide for efficient field administration and gathering under authorized permits. The level of detail required for requests may vary by location and type of material due to the level of sensitivity and abundance of the item being requested, to insure that Forest Service Officers can maintain accountability and sustainable management of the forest products. Additionally, tribal officials are encouraged to explain their requests to Regional Foresters or designated Forest Service Officers, and if necessary, how the request fits a traditional and cultural purpose. Requests which do not include sufficient information for a Forest Service Officer to make an assessment that the request fits a traditional and cultural purpose and does not conflict with existing plans, or maintain sustainable levels and management of the material(s) requested, may be delayed or denied.

Levels for Authorizing Requests comment: One commenter requested that the delegations of authority limitations within the proposed rule (36 CFR 223.15(e)) be removed.

Levels for Authorizing Requests response: The levels set in the proposed rule have not been removed or modified for the final rule. "Limitations" as specified in this final rule pertain to the level of delegation authorized for approving free use requests as specified in 36 CFR 223.8. The levels proposed in this rule (§ 223.15) are an increase from those which apply to other activities specified in § 223.8. There is no limitation on the number of requests that can be made or authorized per Indian tribe. These levels for delegating authority of approval for requests made under this rule are necessary to ensure consistency with the levels of accountability assigned to each Forest Service Officer for management of National Forest System lands and resources within their respective areas of responsibility.

The value limitations do not limit the amount of trees, portions of trees, or forest products that Indian tribes may request through this rule. If an Indian tribe makes a request that has a higher value than the maximum which can be authorized by a local official, then the request will be forwarded to a Forest Service Officer who has the authority to grant the request. Pursuant to this rule, if the value of the forest products requested is greater than the value that may be locally granted, the request will be forwarded as follows—District Ranger (value limitation $25,000), Forest Supervisor, (value limitation $50,000), and Regional Forester (value limitation $100,000). Requests that exceed $100,000 in value will be reviewed and approved by the Chief of the Forest Service.

Definition of commercial comment: One commenter requested clarification as to the definition for the term "commercial purposes". Although the term "commercial purposes" was used in the 2008 Farm Bill (section 8105), a definition of the term was not included in the definitions at section 8102.

Definition of commercial response: In consideration of this request for clarification of the definition of the term "commercial purposes", the Agency reviewed a number of existing definitions, consulted existing Regional policy, and considered defining the term within the final regulatory text. The Agency has decided, however, not to define the term "commercial purposes" in this rule for the reasons discussed herin.

The term "commercial" is used in other subparts of 36 CFR part 223 without definition. The need to define this term, and a definition appropriate for application and administration, may vary by location and the accepted traditional and cultural practices of the Indian tribe(s) involved. In particular, Regional Forest Service representatives expressed concern that defining the term in the body of the rule could preclude varying levels of locally accepted traditional and cultural practices. Regional Representatives requested that we leave a definition of this term to Regional discretion in order to best suit the partnerships and agreements developed in consultation with Indian tribes and used within the regions. Regions implementing this rule under the existing interim directive and supplemental Regional guidance, specific for the region, have not experienced issues to this point regarding what is or is not deemed commercial for purposes of this rule.

Based on the lack of a definition for "commercial purposes" in the 2008 Farm Bill, regular and undefined use of the term in other Forest Service documents, and Forest Service Regional Staff's request that the term be left undefined, this final rule does not include a definition within the regulatory text.

Traditional barter and trade comment: One commenter requested clarification of whether barter and trade is permitted for materials obtained through this rule. Specifically, whether an Indian tribe may barter or trade materials obtained pursuant to this rule as a means of recouping the costs an Indian tribe incurs for planning, gathering, and processing such materials.

Traditional barter and trade response: Barter and trade is not expressly addressed in the regulatory text for this rule.

This rule derives from the authority and prohibitions within section 8105 of the 2008 Farm Bill. The Forest Service is authorized to provide trees, portions of trees, or forest products free-of-charge from National Forest System land to Indian tribes for traditional and cultural purposes, except when those purposes involve commercial use. According to the definition in section 8102 of the 2008 Farm Bill, the term "traditional and cultural purpose," with respect to a definable use, area, or practice, means that the use, area, or practice is identified by an Indian tribe as traditional or cultural because of the long-established significance or ceremonial nature of the use, area, or practice to the Indian tribe. Barter and trade of materials obtained through requests made under this rule, which meet the definition for a traditional and cultural purpose and are not considered to be commercial, may be acceptable. Tribal officials are encouraged to explain their requests to Regional Foresters or designated Forest Service Officers and, if necessary, describe how the request fits a traditional and cultural purpose. Requests that do not include enough information for a Forest Service Officer to make a reasonable assessment that the request fits a traditional and cultural purpose and will not be used for commercial purposes may be denied.

Similar to the term "commercial", the need to address barter and trade may vary by location and the accepted traditional and cultural practices of the Indian tribe(s) involved. Regions implementing this rule under the existing interim directive and supplemental Regional guidance, specific for the region, have not experienced issues to this point regarding barter and trade for purposes of this rule. Authorization of barter and trade will be left to Regional discretion in order to best suit the partnerships and agreements developed in consultation with Indian tribes and used within the region. Any forms of barter and trade which are authorized in previous agreements, tribal treaty, or other reserved rights will not be affected by this rule.

General Comment (1): One commenter expressed direct support of the previously proposed rule.

General comment (1) response: This comment is acknowledged but deemed outside of the scope of this rule. The Agency is adopting this rule for the reasons stated within including the rule's consistency with section 8105 and it meets the Agency's needs.

General Comment (2): One commenter offered to share information regarding an organization that funds forest associations.

General Comment (2) response: The comment is is found to be outside the scope of this rule.

Summary of Additional Changes

Use of the term "noncommercial"—No comments were received in response to the proposed rule's use of the term "noncommercial". However, the term has been removed from both the title of section 223.15 as well as from section 223.15(d). Noncommercial was being used, in the proposed rule, as a reference to the Farm Bill's prohibition on commercial purposes, but, because it was not used in the Farm Bill, the term has been removed from this final rule, to avoid any confusion and for clarification purposes.

Section 223.15(d)—Although no comments were received, a minor change was made to the wording in the last sentence, in section 223.15(d), describing how notification should take place when two or more National Forests are involved in a single request. This was done to ensure clarity regarding the notification requirement.

Regulatory Certifications

Regulatory Impact

This final rule has been reviewed under U.S. Department of Agriculture procedures and Executive Order 12866 on Regulatory Planning and Review as amended by 13422. The Office of Management and Budget (OMB) has determined that this is not a significant rule. This final rule will not have an annual effect of $100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. This final rule will not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, this action will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this final rule is not subject to OMB review under Executive Order 12866.

Proper Consideration of Small Entities

This final rule has been considered in light of Executive Order 13272 regarding consideration of small entities and the Small Business Regulatory Enforcement Act of 1996 (SBREFA), which amended the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It has been determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the Executive Order. The final rule will have no adverse impact on small business, small not-for-profit organizations, or small units of government.

Environmental Impact

This final rule has no direct or indirect effect on the environment. The rules at 36 CFR 220.6(d)(2) exclude from documentation in an environmental assessment or impact statement rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions that do not significantly affect the quality of the human environment. The Department's assessment is that this final rule falls within this category of actions, and that no extraordinary circumstances exist that would require preparation of an environmental assessment or environmental impact statement.

Federalism

The Department has considered this final rule under the requirements of Executive Order 13132, Federalism, and concluded that this action will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the Department has determined that no further assessment of federalism implications is necessary at this time.

Consultation With Tribal Governments

Pursuant to Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments,* the Forest Service entered into consultation with Indian tribes regarding this proposed rule. Beginning on or before May 1, 2010, Indian tribes were provided with the Forest Service's Interim Directive on section 8105 of the 2008 Farm Bill, and were invited to consult on changes to 36 CFR part 223. In addition, the Forest Service provided a question and answer document related to the Interim Directive and regulatory actions the Agency was considering to implement section 8105. Government-to-government consultation occurred over a period of at least 120 days, through September 1, 2010. The Forest Service received 88 comments as a result of consultation, including some received after September 1; all were considered in the development of the proposed rule.

No Takings Implications

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12360, and it has been determined that this action will not pose the risk of a taking of private property.

Controlling Paperwork Burdens on the Public

With this submission, and upon OMB approval, the addition of the collection requirements of Rule Identification Number 0596–AD00, OMB no. 0596–0233 for federally recognized Indian tribes wishing to request free use under the authority of section 8105 of the 2008 Farm Bill are being added to OMB control number 0596–0085 *Forest Products Removal Permits and Contracts.*

Title: Sale and Disposal of National Forest System Timber; Forest Products for Traditional and Cultural Purposes.

OMB Control Number: 0596–0233.

Abstract: The information collection associated with the proposed rule *Sale and Disposal of National Forest System Timber; Forest Products for Traditional and Cultural Purposes* was published in the **Federal Register** on July 31, 2014 (79 FR 44327) as OMB control number 0596–0085 *Forest Products Removal Permits and Contracts,* Regulatory Identification Number 0596–AD00. The information collection included updates made to charge permits and contracts as well as revisions made to accommodate requests from Indian tribes for free use under section 8105 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246, 122 Stat. 1651) [hereinafter the "2008 Farm Bill"], per the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and implementing regulations at 5 CFR part 1320. No comments were received regarding the information collection during the proposed rule's 60-day notice and comment period. However, OMB has requested the information collection requirements specific to the 2008 Farm Bill, be disclosed separately as OMB 0596–0233. Upon review and approval from OMB, the two information collections (OMB 0596–0223 and OMB 0596–0085) will be merged. Therefore, through this Federal Register notice, the Agency is providing an opportunity to comment on the information collection associated with the final rule during the 30-day period between the publication date and the effective date of the final rule.

As stated earlier in this final rule, section 8105 of the 2008 Farm Bill provides the Secretary of Agriculture with discretionary authority to provide trees, portions of trees, or forest products to Indian tribes free of charge for traditional and cultural purposes provided that the trees, portions of trees, or forest products are provided to tribal officials on behalf of an Indian tribe for traditional and cultural purposes; and the trees, portions of trees, or forest products will not be used for commercial purposes.

Indian tribes seeking products under the 2008 Farm Bill authority must make a request for free use. "Requests . . . must be submitted to the local Forest Service District Ranger's Office(s) in writing. Requests may be made: (1) Directly by a tribal official(s) who has been authorized by the Indian tribe to make such requests; or (2) By providing a copy of a formal resolution approved by the tribal council or other governing body of the Indian tribe." Additionally, "[t]ribal officials are encouraged to explain their requests to the Regional Forester or designated Forest Officer and, if necessary, describe how the request fits a traditional and cultural purpose. When an Indian tribe requests forest products located on two or more National Forests, authorized tribal officials should notify each of the affected Forest Service District Ranger's Offices of the requests made on other forests." Under section 8105 of the 2008 Farm Bill, there is no stated maximum free use limitation for products requested by Indian tribes. Additionally, there is no limitation to the number of requests that each federally recognized Indian tribe may make under this final rule.

Should Indian tribes wish to obtain proof of possession, as may be required in some States, they could be issued a FS–2400–8 free use permit by the Forest Service. The FS–2400–8 form allows use of timber or forest products at no charge (36 CFR 223.5–223.13). No changes are being made to the free-use form as a result of the 2008 Farm Bill provision. Upon receiving the permit, the permittee must comply with its terms (36 CFR 261.6), which designate forest products that can be harvested and under what conditions, such as limiting harvest to a designated area or permitting harvest of only specifically designated material. Only the minimum information necessary to comply with Federal laws and regulations is collected. Agency personnel enter the information provided by Indian tribes into a computerized database to use for any subsequent requests made by the Indian tribe. The information is printed on paper, which the applicant signs and dates. Agency personnel discuss the terms and conditions of the permit or contract with the applicant. The data gathered is not available from other sources. The collected information will help the Forest Service oversee the approval and use of forest products under section 8105 of the 2008 Farm Bill. For example, the collected information will be used to ensure applicants meet the criteria for free use of timber or forest products authorized under section 8105 and to identify permittees in the field by Forest Service personnel.

The following summarizes the information collection associated with the final directive:

Estimate of burden: Reporting burden for the collection of information is estimated to average 5 minutes per response.

Respondents: Federally recognized Indian tribes under section 8105 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246, 122 Stat. 1651).

Estimated Number of Respondents: 1,132.

Estimated Number of Annual Responses per Respondent: 1.5.

Estimated Total Annual Responses: 2,123.

Estimated Total Annual Burden Hours: 241.

Comment is invited on (1) whether this information collection is necessary for the stated purposes and proper performance of the functions of the

Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of burden associated with the information collection, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. The comments will be summarized and included in the request to OMB for approval.

Energy Effects

This final rule has been reviewed under Executive Order 13211 of May 18, 2001, and it has been determined that it has no effect on the supply, distribution, or use of energy. This rule is administrative in nature and, therefore, the preparation of a statement of energy effects is not required.

Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. When the final rule is adopted: (1) All State and local laws and regulations that conflict with the final rule or that would impede full implementation of this rule will be preempted; (2) no retroactive effect will be given to the final rule; and (3) the Department will not require the use of administrative proceedings before parties could file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the Department has assessed the effects of this final rule on State, local, and tribal governments and the private sector. This action will not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

List of Subjects in 36 CFR Part 223

Administrative practice and procedure, Exports, Forests and forest products, Government contracts, National forests, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Forest Service, U.S. Department of Agriculture, amends 36 CFR part 223 as follows:

PART 223—SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER, SPECIAL FOREST PRODUCTS, AND FOREST BOTANICAL PRODUCTS

■ 1. The authority citation for part 223 is revised to read as follows:

Authority: 90 Stat. 2958, 16 U.S.C. 472a; 98 Stat. 2213, 16 U.S.C. 618, 104 Stat. 714–726, 16 U.S.C. 620–620j, 25 U.S.C. 3055 and 3057, 113 Stat. 1501a, 16 U.S.C. 528 note; unless otherwise noted.

■ 2. Add § 223.15 to subpart A to read as follows:

§ 223.15 Provision of trees, portions of trees, or forest products to Indian tribes for traditional and cultural purposes.

(a) Pursuant to section 8105 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246, 122 Stat. 1651) [hereinafter the "2008 Farm Bill"], Regional Foresters or designated Forest Officers may, at their discretion, provide trees, portions of trees, or forest products to Indian tribes free of charge for traditional and cultural purposes provided that:

(1) The trees, portions of trees, or forest products are provided to tribal officials on behalf of an Indian tribe for traditional and cultural purposes; and

(2) The trees, portions of trees, or forest products will not be used for commercial purposes.

(b) The following definitions apply to this section:

Indian tribe. The term "Indian tribe" means any Indian or Alaska Native tribe, band, nation, pueblo, village, or other community the name of which is included on a list published by the Secretary of the Interior pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1).

Traditional and cultural purpose. The term "traditional and cultural purpose," with respect to a definable use, area, or practice, means that the use, area, or practice is identified by an Indian tribe as traditional or cultural because of the long-established significance or ceremonial nature of the use, area, or practice to the Indian tribe.

Tribal officials: The term "tribal officials" means elected or duly appointed officials of Indian tribal governments.

(c) Requests for trees, portions of trees, or forest products made under this section must be submitted to the local Forest Service District Ranger's Office(s) in writing. Requests may be made:

(1) Directly by a tribal official(s) who has been authorized by the Indian tribe to make such requests; or

(2) By providing a copy of a formal resolution approved by the tribal council or other governing body of the Indian tribe.

(d) Requests for trees, portions of trees, and forest products made under this section must be directed to the appropriate Forest Service District Ranger(s)' Office from which the items are being requested. Tribal officials are encouraged to explain their requests to the Regional Forester or designated Forest Officer and, if necessary, describe how the request fits a traditional and cultural purpose. When an Indian tribe requests forest products located on two or more National Forests, authorized tribal officials should notify each of the affected Forest Service District Ranger's Offices of the requests made on other forests.

(e) Agency Line Officers and managers (who have been authorized by name through official Forest Service correspondence) are authorized to provide trees, portions of trees, and forest products under this section subject to the following limitations:

(1) District Rangers and Forest Officers may provide material not exceeding $25,000 in value in any one fiscal year to an Indian tribe;

(2) Forest Supervisors may provide material not exceeding $50,000 in value in any one fiscal year to an Indian tribe;

(3) Regional Foresters may provide material not exceeding $100,000 in value in any one fiscal year to an Indian tribe; and

(4) The Chief of the Forest Service may provide material exceeding $100,000 in value to an Indian tribe.

(f) A request for trees, portions of trees, or forest products under this section may be conditioned or denied for reasons including, but not limited to the following:

(1) Protecting public health and safety;

(2) Preventing interference with Forest Service and/or commercial operations;

(3) Complying with Federal and State laws and regulations;

(4) Ensuring sustainability; or

(5) Otherwise protecting National Forest System land and resources.

(g) All decisions made under this section must comply with the National Forest Management Act, relevant land management plans, the National Environmental Policy Act, the Endangered Species Act, all other applicable laws and regulations, and are subject to tribal treaty and other reserved rights and the savings provisions of the Cultural and Heritage Cooperation Authority (25 U.S.C. 3057(b)).

Dated: July 29, 2016.

Thomas L. Tidwell,

Chief, Forest Service.

[FR Doc. 2016–22929 Filed 9–23–16; 8:45 am]

BILLING CODE 3411–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2015–0835; FRL 9952–79–Region 7]

Approval of Air Quality Implementation Plans; Missouri State Implementation Plan for the 2008 Lead Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the State Implementation Plan (SIP) for the State of Missouri. This final action will approve Missouri's SIP for the lead National Ambient Air Quality Standard (NAAQS) received by EPA on October 20, 2014. EPA proposed approval of this plan on February 29, 2016. The applicable standard addressed in this action is the lead NAAQS promulgated by EPA in 2008. EPA believes that the SIP submitted by the state satisfies the applicable requirements of the Clean Air Act (CAA) identified in EPA's Final Rule published in the **Federal Register** on October 15, 2008, and will bring the area surrounding the Exide Technologies Canon Hollow facility in Forest City, Missouri, into attainment of the 0.15 microgram per cubic meter (ug/m^3) lead NAAQS.

DATES: This final rule is effective on October 26, 2016.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2015–0835. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Stephanie Doolan, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7719, or by email at *doolan.stephanie@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to EPA.

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I. What is being addressed in this document?
II. Have the requirements for approval of a SIP revision been met?
III. EPA's Response to Comments
IV. What action is EPA taking?

I. What is being addressed in this document?

In this document, EPA is granting final approval of Missouri's SIP to address violations of the lead NAAQS near the Exide Technologies—Canon Hollow facility in Holt County, Missouri. The applicable standard addressed in this action is the lead NAAQS promulgated by EPA in 2008. The applicable requirements of the CAA identified in EPA's Final Rule (73 FR 66964, October 15, 2008), and will bring the area into compliance with the 0.15 microgram per cubic meter (ug/m^3) lead NAAQS. EPA's proposal containing the background information for this action can be found at 81 FR 10182, February 29, 2016.

II. Have the requirements for the approval of a SIP revision been met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. EPA's Response to Comments

The public comment period on EPA's proposed rule opened February 29, 2016, the date of its publication in the **Federal Register**, and closed on March 30, 2016. During this period, EPA received two comments posted anonymously to the *Regulations.gov* Web site.

One comment pertains to mold in indoor air and not the subject of the proposed approval of the SIP revision to address lead in ambient air. Because the comment is anonymous, EPA is unable to contact the commenter directly to offer assistance. However, EPA offers that the commenter may contact Ms. Gina Grier of EPA Region 7 directly at (913) 551–7078 for more information and assistance on the commenter's concerns about mold.

The second comment states that he/she is in agreement with EPA's proposed action to approve the revision to the SIP and the commenter offers two suggestions. The first suggestion is to estimate the cost of water washing to clean haul routes on the facility property and the second is a concern that limiting truck traffic on the facility property may reduce the resources purchased in the state of Missouri.

EPA's response to the first suggestion regarding water washing to clean the on-site haul routes is that the use of water to remove lead from on-site roads was studied and determined to be a cost-effective and necessary strategy to control lead during the development of the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Secondary Lead Smelters, promulgated January 5, 2012 (77 FR 580). Because the Exide Canon Hollow facility is a secondary lead smelter, it must comply with the requirements of this rule, including, among other things, the requirement to conduct twice daily water washing of on-site haul routes. This cleaning is necessary to control lead-containing dust in order to meet the 2008 lead NAAQS. The NESHAP is related to the NAAQS in that the NESHAP requires attainment of the same 0.15 ug/m^3 standard for lead at the fenceline. No change has been made to address this suggestion.

Regarding the concern that limiting truck traffic may reduce the resources purchased in the state of Missouri, the state and facility arrived at the limitations on truck traffic using EPA's AERMOD computer-based modeling. Truck traffic along haul routes is known to increase the amount of lead-containing dust that becomes re-entrained in ambient air. Modeling was used to estimate the amount of truck traffic along facility haul routes that could be allowed without causing a NAAQS violation at the fenceline. Thus, the limitations are necessary to safeguard the NAAQS level which EPA has determined to be protective of human health and the environment. It also should be noted that the restrictions on truck traffic that are required by the SIP only pertain to traffic on the facility property; there are no limitations on the amount of truck traffic on public roads. No change has been made to address this concern.

IV. What action is EPA taking?

EPA is taking final action to amend the Missouri SIP to approve the SIP revision for the 2008 lead NAAQS. The applicable standard addressed in this action is the lead NAAQS promulgated by EPA in 2008 (73 FR 66964).

Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the EPA-Approved Kansas Source-Specific Requirements. Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully Federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[1] EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this proposed action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**.

A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This proposed action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 25, 2016. Filing a petition for reconsideration by the Administrator of this proposed rule does not affect the finality of this rulemaking for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such future rule or action. This proposed action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2))

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 13, 2016.

Mark Hague,

Regional Administrator, Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et.seq.*

Subpart AA—Missouri

■ 2. Amend § 52.1320 by adding paragraphs (d)(31) and (e)(71) to read as follows:

§ 52.1320 Identification of Plan

(d) * * *

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[1] 62 FR 27968 (May 22, 1997).

EPA-APPROVED MISSOURI SOURCE-SPECIFIC PERMITS AND ORDERS

Name of source	Order/permit No.	State effective date	EPA approval date	Explanation
* *	*	*	*	* *
(31) Exide Technologies Canon Hollow, MO.	Consent Judgment 14H0–CC00064.	10/10/14	9/26/16 and [*Insert* ***Federal Register*** citation].	

* * * * *

(e) * * *

EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
* *	*	*	*	* *
(71) Exide Technologies Compliance Plan 2008 lead NAAQS.	Forest City	10/15/14	9/26/16 and [*Insert* ***Federal Register*** citation].	[EPA–R07–OAR–2015–0835; FRL 9952–79–Region 7].

* * * * *

[FR Doc. 2016–22981 Filed 9–23–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2016–0315; FRL–9952–72–Region 4]

Air Plan Approval; Georgia; Prong 4—2008 Ozone, 2010 NO_2, SO_2, and 2012 $PM_{2.5}$

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is conditionally approving the portions of revisions to the Georgia State Implementation Plan (SIP), submitted by the Georgia Department of Natural Resources (DNR), Environmental Protection Division (GAEPD), addressing the Clean Air Act (CAA or Act) visibility transport (prong 4) infrastructure SIP requirements for the 2008 8-hour Ozone, 2010 1-hour Nitrogen Dioxide (NO_2), 2010 1-hour Sulfur Dioxide (SO_2), and 2012 annual Fine Particulate Matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, commonly referred to as an "infrastructure SIP." Specifically, EPA is conditionally approving the prong 4 portions of Georgia's March 6, 2012, 8-hour Ozone infrastructure SIP submission; March 25, 2013, 2010 1-hour NO_2 infrastructure SIP submission; October 22, 2013, 2010 1-hour SO_2 infrastructure SIP submission; and December 14, 2015, 2012 annual $PM_{2.5}$ infrastructure SIP submission. All other applicable infrastructure requirements for these SIP submissions have been or will be addressed in separate rulemakings.

DATES: This rule will be effective [insert date 30 days after date of publication in the **Federal Register**].

ADDRESSES: EPA has established a docket for this action under Docket Identification No EPA–R04–OAR–2016–0315. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Lakeman can be reached by telephone at (404) 562–9043 or via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) of the CAA are to be submitted by states within three years after promulgation of a new or revised NAAQS to provide for the implementation, maintenance, and enforcement of the new or revised NAAQS. EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of sections 110(a)(1) and 110(a)(2) as "infrastructure SIP" submissions. Sections 110(a)(1) and (2) require states to address basic SIP elements such as the requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the newly established or revised NAAQS. More specifically, section 110(a)(1) provides the procedural and timing requirements for infrastructure SIPs. Section 110(a)(2) lists specific elements that states must meet for the infrastructure SIP requirements related to a newly established or revised NAAQS. The contents of an infrastructure SIP submission may vary depending upon the data and analytical tools available to the state, as well as the provisions already contained in the state's implementation plan at the time in which the state develops and submits the submission for a new or revised NAAQS.

Section 110(a)(2)(D) has two components: 110(a)(2)(D)(i) and 110(a)(2)(D)(ii). Section 110(a)(2)(D)(i) includes four distinct components, commonly referred to as "prongs," that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (prong 1) and from interfering with maintenance of the NAAQS in another state (prong 2). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state (prong 3) or from interfering with measures to protect visibility in another state (prong 4). Section 110(a)(2)(D)(ii) requires SIPs to include provisions ensuring compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement.

Georgia's infrastructure SIP revisions cite to the regional haze program as satisfying the requirements of prong 4 for the 2008 8-hour Ozone, 2010 1-hour NO_2, 2010 1-hour SO_2, and 2012 annual $PM_{2.5}$ NAAQS. However, the State may not currently rely on its regional haze SIP to satisfy these requirements because EPA has not yet fully approved Georgia's regional haze SIP as it relies on the Clean Air Interstate Rule (CAIR) to satisfy the nitrogen oxides (NO_X) and SO_2 Best Available Retrofit Technology (BART) requirements for the CAIR-subject electric generating units (EGUs) in the State and the requirement for a long-term strategy sufficient to achieve the state-adopted reasonable progress goals.[1] Therefore, on May 26, 2016, Georgia submitted a commitment letter to EPA requesting conditional approval of the prong 4 portions of the aforementioned infrastructure SIP revisions.

In its commitment letter, Georgia commits to satisfy the prong 4 requirements for the 2008 8-hour ozone NAAQS, 2010 1-hour NO_2 NAAQS, 2010 1-hour SO_2 NAAQS, and 2012 $PM_{2.5}$ NAAQS by providing a SIP revision that adopts provisions for participation in the Cross State Air Pollution Rule annual NO_X and annual SO_2 trading programs, including annual NO_X and annual SO_2 budgets that are at least as stringent as the budgets codified for Georgia at 40 CFR 97.710(a) (SO_2 Group 2 trading budgets) and 40 CFR 97.410(a) (NO_X Annual trading budgets). Georgia will rely on this SIP revision adopting such budgets to submit a concurrent SIP revision specifically addressing the visibility requirements of prong 4. In its commitment letter, Georgia commits to providing these two concurrent SIP revisions within one year of EPA's final conditional approval of the prong 4 portions of the infrastructure SIP revisions and provides an anticipated schedule for these revisions. If the revised infrastructure SIP revision relies on a fully approvable regional haze SIP, Georgia also commits to providing the necessary regional haze SIP revision to EPA within one year of EPA's final conditional approval.

If Georgia meets its commitment within one year of final conditional approval, the prong 4 portions of the conditionally approved infrastructure SIP submissions will remain a part of the SIP until EPA takes final action approving or disapproving the new SIP revision(s). However, if the State fails to submit these revisions within the one-year timeframe, the conditional approval will automatically become a disapproval one year from EPA's final conditional approval and EPA will issue a finding of disapproval. EPA is not required to propose the finding of disapproval. If the conditional approval is converted to a disapproval, the final disapproval triggers the FIP requirement under CAA section 110(c).

In a notice of proposed rulemaking (NPRM) published on July 11, 2016 (81 FR 44831), EPA proposed to conditionally approve the prong 4 portions of the aforementioned infrastructure SIP submissions. The NPRM provides additional detail regarding the rationale for EPA's action, including further discussion of the prong 4 requirements and the basis for Georgia's commitment letter. Comments on the proposed rulemaking were due on or before August 10, 2016. EPA received no adverse comments on the proposed action.

II. Final Action

EPA is conditionally approving the prong 4 portions of Georgia's March 6, 2012, 8-hour Ozone infrastructure SIP submission; March 25, 2013, 2010 1-hour NO_2 infrastructure SIP submission; October 22, 2013, 2010 1-hour SO_2 infrastructure SIP submission; and December 14, 2015, 2012 annual $PM_{2.5}$ infrastructure SIP submission. All other applicable infrastructure requirements for these SIP submissions have been or will be addressed in separate rulemakings.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L.aw 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because

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[1] CAIR, promulgated in 2005, required 27 states and the District of Columbia to reduce emissions of NO_X and SO_2 that significantly contribute to, or interfere with maintenance of, the 1997 NAAQS for fine particulates and/or ozone in any downwind state. CAIR imposed specified emissions reduction requirements on each affected State, and established several EPA-administered cap and trade programs for EGUs that States could join as a means to meet these requirements.

application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 25, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate Matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Dated: September 13, 2016.

V. Anne Heard,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart L—Georgia

■ 2. Section 52.569 is added to read as follows:

§ 52.569 Conditional approval.

Georgia submitted a letter to EPA on May 26, 2016, with a commitment to address the State Implementation Plan deficiencies regarding requirements of Clean Air Act section 110(a)(2)(D)(i)(II) related to interference with measures to protect visibility in another state (prong 4) for the 2008 8-hour Ozone, 2010 1-hour NO$_2$, 2010 1-hour SO$_2$, and 2012 annual PM$_{2.5}$ NAAQS. EPA conditionally approved the prong 4 portions of Georgia's March 6, 2012, 8-hour Ozone infrastructure SIP submission; March 25, 2013, 2010 1-hour NO$_2$ infrastructure SIP submission; October 22, 2013, 2010 1-hour SO$_2$ infrastructure SIP submission; and December 14, 2015, 2012 annual PM$_{2.5}$ infrastructure SIP submission in an action published in the **Federal Register** on September 26, 2016. If Georgia fails to meet its commitment by September 26, 2017, the conditional approval will automatically become a disapproval on that date and EPA will issue a finding of disapproval.

[FR Doc. 2016–22887 Filed 9–23–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 130

[EPA–HQ–OW–2014–0622; FRL–9952–61–OW]

RIN 2040–AF52

Treatment of Indian Tribes in a Similar Manner as States for Purposes of Section 303(d) of the Clean Water Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In section 518(e) of the Clean Water Act (CWA), Congress authorized the Environmental Protection Agency (EPA) to treat eligible federally recognized Indian tribes in a similar manner as a state for purposes of administering section 303 and certain other provisions of the CWA, and directed the agency to promulgate regulations effectuating this authorization. EPA has issued regulations establishing a process for federally recognized tribes to obtain treatment in a similar manner as states (TAS) for several provisions of the CWA; for example, 53 tribes have obtained TAS authority to issue water quality standards under CWA section 303(c). EPA has not yet promulgated regulations expressly establishing a process for tribes to obtain TAS authority to administer the water quality restoration provisions of CWA section 303(d), including issuing lists of impaired waters and developing total maximum daily loads (TMDLs), as states routinely do. EPA is now remedying this gap. By establishing regulatory procedures for eligible tribes to obtain TAS for the CWA Section 303(d) Impaired Water Listing and TMDL Program, this final rule enables eligible tribes to obtain authority to identify impaired waters on their reservations and to establish TMDLs, which serve as plans for attaining and maintaining applicable water quality standards (WQS). The rule is comparable to similar regulations that EPA issued in the 1990s for the CWA Section 303(c) WQS and CWA Section 402 and Section 404 Permitting Programs, and includes features designed to minimize paperwork and unnecessary reviews.

DATES: This final rule is effective October 26, 2016.

ADDRESSES: EPA has established a docket for this rule under Docket identification (ID) No. EPA–HQ–OW–2014–0622. All documents in the docket are listed and accessible for viewing at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ruth Chemerys, Assessment and Watershed Protection Division, Office of Wetlands, Oceans and Watersheds (4503T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 566–1216; fax number: (202) 566–1331; email address: *TASTMDL@epa.gov.*

SUPPLEMENTARY INFORMATION: This supplementary information is organized as follows:

I. General Information
  A. Does this action apply to me?
  B. Over what area may tribes apply for TAS for the CWA Section 303(d) Impaired Water Listing and TMDL Program?
  C. How was this rule developed?

- D. What is the Agency's authority for issuing this rule?

II. What is the statutory and regulatory history of TAS under the CWA?
- A. Statutory History
- B. Regulatory History

III. Why might a tribe be interested in seeking TAS authority for the CWA Section 303(d) Impaired Water Listing and TMDL Program?

IV. What program responsibilities will tribes have upon obtaining TAS for the CWA Section 303(d) Impaired Water Listing and TMDL Program?
- A. Identification of Impaired Waters and Submission of Section 303(d) Lists
- B. Establishment and Submission of TMDLs
- C. EPA Review of Lists and TMDLs

V. What are EPA's procedures for a tribe to seek TAS for the CWA Section 303(d) Impaired Water Listing and TMDL Program?

VI. What special circumstances may exist regarding qualification for TAS for the CWA Section 303(d) Impaired Water Listing and TMDL Program?

VII. What procedure will EPA follow in reviewing a tribe's TAS application?
- A. Notice to Appropriate Governmental Entities
- B. Avoidance of Duplicative Notice and Comment Procedures
  1. What did EPA consider regarding the notice and comment exemption?
  2. What is EPA's position on certain public comments regarding notice and comment?
- C. Treatment of Competing or Conflicting Claims
- D. EPA's Decision Process

VIII. What are EPA's expectations regarding WQS and WQS TAS as prerequisites for tribes applying for TAS authority for the 303(d) Program?
- A. What did EPA consider regarding WQS and WQS TAS as prerequisites for 303(d) TAS?
- B. What is EPA's position on certain public comments regarding WQS and WQS TAS as prerequisites for 303(d) TAS?

IX. What financial and technical support is available from EPA to tribes as they choose to develop and implement a CWA Section 303(d) Impaired Water Listing and TMDL Program?

X. What is EPA's position on certain other public comments received?
- A. Impact on State/Local Authority for CWA Programs
- B. Relation to May 16, 2016, Interpretive Rule

XI. Statutory and Executive Order Reviews
- A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
- B. Paperwork Reduction Act (PRA)
- C. Regulatory Flexibility Act (RFA)
- D. Unfunded Mandates Reform Act (UMRA)
- E. Executive Order 13132: Federalism
- F. Executive Order 13175: Tribal Consultation and Coordination
- G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
- H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
- I. National Technology Transfer and Advancement Act
- J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
- K. Congressional Review Act

I. General Information

A. Does this action apply to me?

This rule applies to federally recognized tribal governments with reservations interested in seeking TAS eligibility to administer the CWA Section 303(d) Impaired Water Listing and TMDL Program. Although this rule applies directly only to Indian tribes applying for TAS, state and local governments, as well as other entities including other Indian tribes, may be interested to the extent they are adjacent to the Indian reservation[1] lands of TAS applicant tribes, share water bodies with such tribes, and/or discharge pollutants to waters of the United States located within or adjacent to such reservations. The table below provides examples of entities that could be affected by this action or have an interest in it.

Category	Examples of potentially affected or interested entities
Tribes	Federally recognized tribes with reservations that are interested in applying for TAS for CWA Section 303(d) Impaired Water Listing and TMDL Program, and other interested tribes.
States	States adjacent to reservations of potential applicant tribes.
Industry dischargers	Industrial and other commercial entities discharging pollutants to waters within or adjacent to reservations of potential applicant tribes.
Municipal dischargers	Publicly owned treatment works or other facilities discharging pollutants to waters within or adjacent to reservations of potential applicant tribes.

If you have questions regarding the effect of this rule on a particular entity, please consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Over what area may Tribes apply for TAS for the CWA Section 303(d) Impaired Water Listing and TMDL Program?

Under section 518(e) of the CWA, 33 U.S.C. 1377(e), Indian tribes may seek TAS authorization to administer certain CWA programs pertaining to water resources of their reservations. Tribes are not eligible to administer CWA programs pertaining to any non-reservation Indian country[2] or any other type of non-reservation land. The term "federal Indian reservation" is defined at CWA section 518(h)(1) to include all land within the limits of any Indian reservation under the jurisdiction of the United States Government notwithstanding the issuance of any patent, and including rights-of-way running through the reservation. CWA sections 518(e)(2), (h)(1); *see also* 40 CFR 131.3(k). EPA's longstanding position is that reservations include both formal reservations (*e.g.,* named reservations established through federal treaties with tribes, federal statutes, or Executive Orders of the President) as well as tribal trust lands that may not be formally designated as reservations, but that qualify as informal reservations. *See, e.g.,* 56 FR 64876, 64881, December 12, 1991; *Arizona Public Service Co.* v. *EPA,* 211 F.3d 1280, 1292–1294 (D.C. Cir. 2000), *cert. denied sub nom., Michigan* v. *EPA,* 532 U.S. 970 (2001). Tribes may seek TAS authorization for both formal and informal reservations, and both types of lands are referred to herein as "reservations."

Although this rule facilitates eligible tribes' administration of an additional regulatory program, nothing in this rule changes, expands, or contracts the geographic scope of potential tribal TAS eligibility under the CWA.

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[1] See "Over What Area May Tribes Apply for TAS for the CWA Section 303(d) Impaired Water Listing and TMDL Program?" below.

[2] The term Indian country is defined at 18 U.S.C. 1151.

C. How was this rule developed?

In developing this rule, EPA conducted consultation and coordination with tribes and states before proposing this rule in the **Federal Register** on January 19, 2016. 81 FR 2791. On March 28, 2014, EPA initiated consultation and coordination with federally recognized Indian tribes concerning the planned proposed rulemaking. On September 19, 2014, EPA invited input from intergovernmental associations and met with them on October 1, 2014. Additional consultation and coordination occurred in 2015. During the 60-day public comment period in 2016, EPA provided informational webinars for the public, tribes, and states, and conducted further consultation and coordination with tribes and states. Following the public comment period, EPA also participated in informational meetings with tribes.

EPA received over 830 public comments on the proposed rule. EPA received over 800 mass email comments in support of the rule, as well as individual comments from nine tribes and tribal associations, expressing support for the rule. EPA also received individual comments from eight states, one local government, one local non-governmental organization, two regulated entities, several private citizens, and one federal agency. Most states generally were neutral regarding the proposed rule overall. Some states cited special circumstances regarding applicability of the rule in their states. Two states and the two local entities opposed the proposed rule, citing concern regarding impacts on state and local programs, as well as objections to EPA's proposed (now final) interpretive rule regarding tribal jurisdiction under the Clean Water Act. *Revised Interpretation of Clean Water Act Tribal Provision,* 80 FR 47430 (August 7, 2015) (proposed rule); 81 FR 30183 (May 16, 2016) (final rule).

This final rule establishing regulatory procedures for eligible tribes to obtain TAS for the CWA Section 303(d) Impaired Water Listing and TMDL Program reflects EPA's careful consideration of all the comments. The comments and EPA's responses to the comments are available in the public docket at *http://www.regulations.gov.*

D. What is the Agency's authority for issuing this rule?

The CWA, 33.U.S.C. 1251, *et seq,* including section 518 (33 U.S.C.1377).

II. What is the statutory and regulatory history of TAS under the CWA?

A. Statutory History

Congress added section 518 to the CWA as part of amendments made in 1987. Section 518(e) authorizes EPA to treat eligible Indian tribes in the same manner as it treats states for a variety of purposes, including administering each of the principal CWA regulatory programs and receiving grants under several CWA funding authorities. Section 518(e) is commonly known as the "TAS" provision. Section 303 is expressly identified in section 518(e) as one of the provisions available for TAS.

Section 518(e) also requires EPA to promulgate regulations specifying the TAS process for applicant tribes. Section 518(h) defines "Indian tribe" to mean any Indian tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a federal Indian reservation.

B. Regulatory History

Pursuant to section 518(e), EPA promulgated several final regulations establishing TAS criteria and procedures for Indian tribes interested in administering programs under the Act. The relevant regulations addressing TAS requirements for the principal CWA regulatory programs are:

- 40 CFR 131.8 for section 303(c) water quality standards, published December 12, 1991 (56 FR 64876);
- 40 CFR 131.4(c) for CWA section 401 water quality certification, published December 12, 1991 (56 FR 64876);
- 40 CFR 123.31–34 for CWA section 402 National Pollutant Discharge Elimination System (NPDES) permits and other provisions, and 40 CFR 501.22–25 for the sewage sludge management program, published December 22, 1993 (58 FR 67966); and
- 40 CFR 233.60–62 for CWA section 404 dredge or fill permits, published February 11, 1993 (58 FR 8172).

In 1994, EPA amended the above regulations to simplify the TAS process and eliminate unnecessary and duplicative requirements. 59 FR 64339 (December 14, 1994) ("Simplification Rule"). For example, the Simplification Rule eliminated the need for a tribe to prequalify for TAS before applying to administer the section 402 and section 404 permit Programs. Instead, the rule provided that a tribe would seek to establish its TAS eligibility at the Program approval stage (subject to notice and comment procedures in the **Federal Register**). However, the rule retained the separate TAS prequalification requirement (including local notice and comment procedures) for section 303(c) water quality standards and section 401 water quality certifications. *Id.; see also,* 40 CFR 131.8(c)(2), (3).[3] The TAS regulations for CWA regulatory programs have remained intact since promulgation of the Simplification Rule. EPA is now addressing a gap in its current TAS regulations by finalizing regulations that specify how tribes may seek TAS for the CWA Section 303(d) Impaired Water Listing and TMDL Program.

On May 16, 2016, EPA published an interpretive rule revising the Agency's approach to tribal jurisdiction under the CWA. *Revised Interpretation of Clean Water Act Tribal Provision,* 81 FR 30183 (May 16, 2016). In the interpretive rule, EPA concluded definitively that section 518 includes an express delegation of authority by Congress to Indian tribes to administer regulatory programs over their entire reservations, subject to the eligibility requirements in section 518. This reinterpretation eliminates the need for applicant tribes to demonstrate inherent authority to regulate under the CWA, thus allowing tribes to implement the congressional delegation of authority. The reinterpretation also brings EPA's treatment of tribes under the CWA in line with EPA's treatment of tribes under the Clean Air Act, which has similar statutory language addressing tribal regulation of Indian reservation areas.

The interpretive rule did not result in any revisions to the application procedures of EPA's TAS regulations as codified in the Code of Federal Regulations. EPA will continue to review CWA TAS applications in accordance with existing TAS regulations, which provide the procedural infrastructure for the TAS application and review processes. This rule, which is closely based on the existing CWA TAS regulations, provides similar regulatory infrastructure for tribes interested in applying to administer the section 303(d) Program. Any application of the interpretive rule would occur solely in the context of an EPA final decision approving a tribe's TAS application based on the revised interpretation of tribal jurisdiction. *See, e.g.,* 81 FR at 30185.

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[3] Under the CWA and EPA's regulations, tribes may simultaneously (1) apply for TAS under CWA section 518 for the purpose of administering water quality standards and (2) submit actual standards for EPA review under section 303(c). Although they may proceed together, a determination of TAS eligibility and an approval of actual water quality standards are two distinct actions.

III. Why might a tribe be interested in seeking TAS authority for the CWA Section 303(d) Impaired Water Listing and TMDL Program?

TAS for the CWA Section 303(d) Impaired Water Listing and TMDL Program provides a tribe with the opportunity to participate directly in restoring and protecting its reservation waters through implementing the Program, as Congress authorized under CWA section 518(e). In the rest of this notice, EPA refers to the functions identified in CWA section 303(d) regarding listing of impaired waters and establishment of TMDLs as the "Section 303(d) Impaired Water Listing and TMDL Program" or "303(d) Program." Section 303(d) provides for states and authorized tribes to (1) develop lists of impaired waters (and establish priority rankings for waters on the lists) and (2) establish TMDLs for these waters. By listing impaired waters, a state or authorized tribe identifies those waters in its territory that are not currently meeting EPA-approved or EPA-promulgated WQS (collectively referred to as "applicable WQS"). A TMDL is a planning document intended to address impairment of waters, including the calculation and allocation to point and nonpoint sources of the maximum amount of a pollutant that a water body can receive and still meet applicable WQS, with a margin of safety.

By obtaining TAS for section 303(d), tribes can take the lead role under the CWA in identifying and establishing a priority ranking for impaired water bodies on their reservations and in establishing TMDLs and submitting them to EPA for approval. These are important informational and planning steps that tribes can take to restore and maintain the quality of reservation waters.

TMDLs must allocate the total pollutant load among contributing point sources ("waste load allocations" or "WLAs") and nonpoint sources ("load allocations" or "LAs"). 40 CFR 130.2. Point source WLAs are addressed through the inclusion of water quality-based effluent limits in national pollutant discharge elimination system (NPDES) permits issued to such sources. Under EPA's regulations, NPDES permitting authorities shall ensure that "[e]ffluent limits developed to protect a narrative water quality criterion, a numeric water quality criterion, or both, are consistent with the assumptions and requirements of any available waste load allocation for the discharge prepared by the State and approved by EPA pursuant to 40 CFR 130.7." 40 CFR 122.44(d)(1)(vii)(B). WLAs under 40 CFR 122.44(d)(1)(vii)(B) would include WLAs developed by a tribe with TAS authorization and approved by EPA pursuant to 40 CFR 130.7. For water bodies impaired by pollutants from nonpoint sources, authorized tribes would not acquire new or additional implementation authorities when listing such impaired water bodies and establishing TMDLs. Instead, the mechanisms for implementing the nonpoint source pollutant reductions, or LAs, identified in any tribal TMDLs would include existing tribal authorities, other federal agencies' policies and procedures, as well as voluntary and incentive-based programs.

This rule does not require anything of tribes that are not interested in TAS for the 303(d) Program. Based on pre- and post-proposal input, EPA understands that not all tribes will be interested in obtaining TAS for 303(d), and some may consider other approaches that might benefit their reservation waters. Clean Water Act section 319 watershed-based plans, for example, may help tribes protect and restore water resources threatened or impaired by nonpoint source pollution.[4]

IV. What program responsibilities will tribes have upon obtaining TAS for the CWA Section 303(d) Impaired Water Listing and TMDL Program?

The goal of the CWA is "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." CWA section 101(a). Identification of impaired waters and TMDLs are important tools for achieving that goal. After a tribe receives EPA approval of its eligibility to implement a CWA Section 303(d) Impaired Water Listing and TMDL Program, it is treated in a manner similar to a state and, for purposes of list and TMDL development, it would become an "authorized tribe." Generally, the federal statutory and regulatory requirements for state 303(d) Programs would be applicable to authorized tribes. *See* 40 CFR 130.16(c)(5). The following paragraphs identify important 303(d) Program responsibilities that tribes with TAS would assume and implement.

A. Identification of Impaired Waters and Submission of Section 303(d) Lists

Under section 303(d) of the CWA, every two years, authorized tribes will be required to develop lists of waters not meeting, or not expected to meet, applicable water quality standards. 40 CFR 130.7(d). These lists are commonly called "impaired waters lists" or "303(d) lists." Impaired waters are waters for which technology-based limitations and other required controls are not stringent enough to meet applicable CWA water quality standards. Threatened waters are waters that currently attain applicable WQS, but for which existing and readily available data and information indicate that applicable WQS will likely not be met by the time the next list of impaired or threatened waters is due to EPA.[5] The authorized tribe's section 303(d) list would include all impaired and threatened waters within the scope of its 303(d) TAS authorization. In this notice, EPA uses the term "impaired waters" to refer to both impaired and threatened waters.[6] The authorized tribe would be required to "assemble and evaluate all existing and readily available information" in developing its section 303(d) list. 40 CFR 130.7(b)(5). EPA's regulations include a non-exhaustive list of water quality-related data and information to be considered. *Id.* The tribe would establish priorities for development of TMDLs for waters on its section 303(d) list based on the severity of the pollution and the uses to be made of the waters. 40 CFR 130.7(b)(4).[7] The tribe would then submit its list of impaired waters to EPA for review and approval.

Like states, authorized tribes are required to submit their "303(d) lists" to EPA for approval every two years on April 1 (lists are due April 1 of even-numbered years). As indicated in section 130.16(c)(5) of this rule, a tribe gaining TAS status is provided at least 24 months to submit its first impaired waters list to EPA. The tribe's first impaired waters list is due to EPA the next listing cycle due date that is at least 24-months from the later of (1) the date the tribe's TAS application for 303(d) is approved or (2) the date EPA-approved/promulgated WQS for the tribe's waters are effective. (See section VII for the procedure EPA will follow in reviewing a tribe's TAS application.). Thus, for example, if EPA approves a tribe's TAS application on March 15, 2017 and the tribe's WQS on June 30, 2017, the tribe's first list would be due on April 1, 2020. The tribe could submit its list to EPA prior to that date, if it chooses.

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[4] See *Handbook for Developing and Managing Tribal Nonpoint Source Pollution Programs under Section 319 of the Clean Water Act,* February 2010, available at *http://www2.epa.gov/sites/production/files/2015-09/documents/2010_02_19_nps_tribal_pdf_tribal_handbook2010.pdf.*

[5] *Guidance for 2006 Assessment, Listing and Reporting Requirements Pursuant to Sections 303(d), 305(b) and 314 of the Clean Water Act,* July 29, 2005, available at *https://www.epa.gov/sites/production/files/2015-10/documents/2006irg-report.pdf.*

[6] Under EPA's regulations, "water quality limited segments" include both impaired waters and threatened waters, and are defined as "any segment where it is known that water quality does not meet applicable water quality standards, and/or is not expected to meet applicable water quality standards, even after the application of the technology-based effluent limitations required by sections 301(b) and 306 of the Act." 40 CFR 130.2(j).

[7] Section 303(d)(1) requires states to "establish a priority ranking" for the segments it identifies on the list, taking into account the severity of the pollution and the uses to be made of such segments, and to establish TMDLs "in accordance with the priority ranking." EPA will review the priority ranking but does not take action to approve or disapprove it. *See Guidance for 2006 Assessment, Listing and Reporting Requirements Pursuant to Sections 303(d), 305(b) and 314 of the Clean Water Act,* July 29, 2005, available at *https://www.epa.gov/sites/production/files/2015-10/documents/2006irg-report.pdf.*

Most tribes that would be eligible for TAS authorization under this rule are likely to be recipients of CWA section 106 grants and would thus be required to submit section 106 grant work plans annually. If a tribe's CWA section 106 grant work plan includes ambient water quality monitoring activities, the tribe is also required to develop a tribal assessment report (TAR) pursuant to the CWA section 106 grant reporting requirements.[8] EPA encourages tribes that obtain TAS for the CWA Section 303(d) Program and also develop CWA section 106 TARs to consider combining their CWA section 303(d) impaired waters list with their CWA section 106 TAR, and to submit the integrated report electronically through the Assessment TMDL Tracking and Implementation System (ATTAINS).[9] ATTAINS is a database and Web site used for state reporting and displaying of CWA 303(d) and 305(b)[10] "Integrated Report"[11] and TMDL data. EPA is working with tribes on a pilot for submitting TAR information into ATTAINS.

B. Establishment and Submission of TMDLs

Under the CWA, each state and authorized tribe must, "from time to time," establish and submit TMDLs for pollutants causing impairments in all the waters on its 303(d) list. CWA sections 303(d)(1)(C) and 303(d)(2). States and authorized tribes set priorities for developing TMDLs for their listed waters.

TMDLs must be established "at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality." CWA section 303(d)(1)(C). Where a TMDL makes allocation tradeoffs between point and nonpoint sources, the TMDL record must also demonstrate "reasonable assurance" that the nonpoint source allocations will be achieved. 40 CFR 130.2(i). Calculations to establish TMDLs must be subject to public review. 40 CFR 130.7(c)(1)(ii). Once established, the state or authorized tribe submits the TMDL to EPA for review.

C. EPA Review of Lists and TMDLs

Once EPA receives a list or TMDL, it must either approve or disapprove that list or TMDL within 30 days. CWA section 303(d)(2). If EPA disapproves the list or TMDL, EPA must establish a replacement list or TMDL within 30 days of disapproval. 40 CFR 130.7(d)(2).

V. What are EPA's procedures for a tribe to seek TAS for the CWA Section 303(d) Impaired Water Listing and TMDL Program?

Consistent with the statutory requirement in section 518 of the CWA, this rule establishes the procedures by which an Indian tribe may apply and qualify for TAS for purposes of the CWA Section 303(d) Impaired Water Listing and TMDL Program. Such procedures are codified in a new section 130.16 of the water quality planning and management regulation. Section 130.16 identifies (1) the criteria an applicant tribe is required to meet to be treated in a similar manner as a state, (2) the information the tribe is required to provide in its application to EPA, and (3) the procedure EPA will use to review the tribal application. Section 130.16 is intended to ensure that tribes treated in a similar manner as states for the purposes of the CWA Section 303(d) Impaired Water Listing and TMDL Program are qualified, consistent with CWA requirements, to conduct a Listing and TMDL Program. The procedures are meant to provide more opportunities for tribes to engage fully in the Program and are not intended to act as a barrier to tribal assumption of the 303(d) Program.

The TAS procedures in this rule are closely based on the existing TAS regulation at 40 CFR 131.8, which established the TAS process for the CWA Section 303(c) WQS Program. EPA established the TAS process for WQS in 1991, and the great majority of TAS activity for regulatory programs under the CWA has occurred in the WQS Program. The WQS TAS rule has proven very effective in ensuring that applicant tribes satisfy statutory TAS criteria and are prepared to administer WQS Programs under the Act. It thus served as a useful model for this TAS rule.

The TAS criteria tribes are required to meet for purposes of the CWA Section 303(d) Impaired Water Listing and TMDL Program originate in CWA section 518. As reflected in the regulatory language, the tribe must (1) be federally recognized and meet the definitions in sections 131.3(k) and (l), (2) carry out substantial governmental duties and powers, (3) have appropriate authority to regulate the quality of reservation waters, and (4) be reasonably expected to be capable of administering the Impaired Water Listing and TMDL Program. These criteria are discussed below.

The first criterion for TAS requires the tribe to be federally recognized by the U.S. Department of the Interior (DOI) and meet the definitions in sections 131.3(k) and (l). The tribe may address the recognition requirement either by stating that it is included on the list of federally recognized tribes published periodically by DOI, or by submitting other appropriate documentation (*e.g.,* if the tribe is federally recognized but is not yet included on the DOI list). The definition of "tribe" in section 131.3(l), along with requiring federal recognition, additionally requires that the tribe is exercising governmental authority over a Federal Indian reservation. "Federal Indian reservation" is defined in section 131.3(k) as "all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation." (See further discussion of the term "reservation" in section IB of this preamble.) The governmental authority and reservation aspects of these definitions would be addressed in the tribe's application, including as part of its descriptive statements that it currently carries out substantial governmental duties and powers over a defined area, and that it has authority to regulate water quality over a reservation.

The second criterion requires the tribe to have a governing body "carrying out substantial governmental duties and powers." The Agency considers "substantial governmental duties and powers" to mean that the tribe is currently performing governmental functions to promote the health, safety, and welfare of the affected population within a defined geographical area. *See* 54 FR at 39101. Examples of such functions may include, but are not limited to, the power to tax, the power of eminent domain, and police power. Federal recognition by DOI would not, in and of itself, satisfy this criterion. EPA expects that most tribes should be able to meet this criterion without much difficulty. *Id.*

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[8] *Final Guidance on Awards of Grants to Indian Tribes under Section 106 of the Clean Water Act,* (*http://www2.epa.gov/sites/production/files/2014-09/documents/final-tribal-guidance.pdf*) at page 8–1.

[9] "Water Quality Assessment and TMDL Information," available at *http://ofmpub.epa.gov/waters10/attains_index.home.*

[10] CWA section 305(b) requires states to provide every two years an assessment of the quality of all their waters. EPA explicitly exempted tribes from the section 305(b) reporting requirement. 40 CFR 130.4(a); 54 FR 14354, 14357 (April 11, 1989).

[11] *Guidance for 2006 Assessment, Listing and Reporting Requirements Pursuant to Sections 303(d), 305(b) and 314 of the Clean Water Act,* July 29, 2005, available at *https://www.epa.gov/sites/production/files/2015-10/documents/2006irg-report.pdf.*

To address the second criterion, the tribe is required to submit a descriptive statement demonstrating that the tribal governing body is currently carrying out substantial governmental duties and powers over a defined area. The descriptive statement should (1) describe the form of tribal government, (2) describe the types of essential governmental functions currently performed, such as those listed above, and (3) identify the sources of authorities to perform these functions (*e.g.*, tribal constitutions and codes).

The third criterion, concerning tribal authority, means that a tribe seeking TAS for purposes of the CWA Section 303(d) Impaired Water Listing and TMDL Program must adequately demonstrate authority to manage and protect water resources within the borders of the tribe's reservation. To verify authority and satisfy the third criterion of the rule, a tribe must include a descriptive statement of its authority to regulate water quality, which should include a statement signed by the tribe's legal counsel, or an equivalent official, explaining the legal basis for the tribe's regulatory authority, and appropriate additional documentation (*e.g.*, maps, tribal codes, and ordinances).

As described in EPA's May 16, 2016, interpretive rule, EPA previously took an initial cautious approach that required tribes applying for eligibility to administer regulatory programs under the CWA to demonstrate their inherent tribal authority over the relevant regulated activities on their reservations. *See, e.g.*, 81 FR at 30185–86; 56 FR at 64877–81. This included a demonstration of inherent regulatory authority over the activities of non-tribal members on lands they own in fee within a reservation under the principles of *Montana* v. *United States*, 450 U.S. 544 (1981), and its progeny. *Montana* held that, absent a federal grant of authority, tribes generally lack inherent civil jurisdiction over nonmember activities on nonmember fee land, but retain inherent civil authority to regulate nonmember activities on fee land within the reservation where (i) nonmembers enter into "consensual relationships with the tribe or its members, through commercial dealing, contracts, leases, or other arrangements" or (ii) ". . . [nonmember] conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe." *Montana, 450 U.S.* at 565–66.

In addressing the second exception of *Montana* regarding the effects of nonmember conduct, EPA has previously described the Agency's operating approach to require—to the extent a demonstration of inherent regulatory authority is needed—a showing that the potential impacts of regulated activities on the tribe are serious and substantial. 56 FR at 64878. EPA also explained that the activities regulated under the various environmental statutes, including the CWA, generally have serious and substantial potential impacts on human health and welfare. *Id.* EPA described the Agency's expert assessment regarding the critical importance of water quality management to self-government and also explained that because of the mobile nature of pollutants in surface waters and the relatively small size of water bodies on reservations, it would be very likely that any water quality impairment on non-Indian fee land within a reservation would also impair water quality on tribal lands. *Id.* at 64878–79. EPA reiterates the generalized statutory and factual findings set forth in those prior TAS rulemakings, which apply equally to the regulation of water quality under the CWA Section 303(d) Program.

EPA has also separately revised its interpretation of the CWA tribal provision by conclusively determining that Congress intended to delegate authority to eligible tribes to regulate their entire reservations under the CWA irrespective of land ownership. In prior CWA TAS promulgations, EPA recognized that there was significant support for the view that Congress had intended to delegate authority to eligible Indian tribes to administer CWA regulatory programs over their entire reservations, irrespective of land ownership, and EPA expressly stated that the issue of tribal authority under the CWA remained open for further consideration in light of additional congressional or judicial guidance. *See, e.g.*, 56 FR at 64878–81. On May 16, 2016, as part of an entirely separate regulatory action, EPA published in the **Federal Register** a rule to reinterpret the CWA tribal provision as including such an express delegation of authority by Congress. 81 FR 30183. Under that reinterpretation, applicant Indian tribes are no longer required to demonstrate inherent authority to regulate their reservation waters under the CWA. Among other things, tribes are thus no longer required to meet the test established in *Montana* v. *United States*, 450 U.S. 544 (1981), and its progeny with regard to exercises of inherent tribal regulatory authority over nonmember activity. *Id.* Instead, under that reinterpretation, absent rare circumstances that may affect a tribe's ability to effectuate the delegation of authority, a tribe is able to rely on the congressional delegation of authority included in section 518 of the statute as the source of authority to administer CWA regulatory programs over its entire reservation as part of its legal statement. *Id.*

In the preamble to the proposed 303(d) TAS rule, EPA noted that the proposed rule intended to provide appropriate TAS application and review procedures irrespective of which interpretation of tribal authority under the Act applies. As explained in EPA's reinterpretation of section 518, EPA's existing TAS regulations—including 40 CFR 131.8, upon which this rule is modeled—accommodate either interpretation of tribal authority under the CWA and provide appropriate application procedures to ensure that relevant jurisdictional information is provided to EPA and made available for comment. 80 FR 47430. The same is true of this rule, which establishes procedures needed to fill the gap in TAS regulatory infrastructure for the CWA Section 303(d) Program. Now that the May 16, 2016, interpretative rule is finalized, the revised interpretation would be applied in the context of EPA's review of a TAS application submitted under these CWA section 303(d) regulations. Finalization of these procedural regulations, however, is a separate and distinct regulatory action from the reinterpretation and is not based upon, nor does it depend upon that earlier action.

The fourth criterion requires that the tribe, in the Regional Administrator's judgment, be reasonably expected to be capable of administering an effective CWA Section 303(d) Impaired Water Listing and TMDL Program. To meet this requirement, tribes should either (1) show that they have the necessary management and technical skills or (2) submit a plan detailing steps for acquiring the necessary management and technical skills. When considering tribal capability, EPA will also consider whether the tribe can demonstrate the existence of institutions that exercise executive, legislative, and judicial functions, and whether the tribe has a history of successful managerial performance of public health or environmental programs.

The specific information required for tribal applications to EPA is described in section 130.16 (a) and (b). The application must, in general, nclude a statement regarding federal recognition by DOI, documentation that the tribal governing body is exercising substantial duties and powers, documentation of authority to regulate water quality on the reservation, a narrative statement of tribal capability to administer the CWA Section 303(d) Impaired Water Listing and TMDL Program, and any other information requested by the Regional Administrator.

Consistent with EPA's other TAS regulations, the rule also provides that where a tribe has previously qualified for TAS for purposes of a different EPA program, the tribe need only provide the required information that has not been submitted as part of a prior TAS application. To facilitate review of tribal applications, EPA requests that a tribe, in its application, inform EPA whether the tribe has been approved for TAS or deemed eligible to receive authorization for any other EPA program. *See* 59 FR at 64340.

The TAS application procedures and criteria for the CWA Sections 303(c) WQS and 303(d) Impaired Water Listing and TMDL Programs are similar in many respects, and a tribe interested in both programs may wish to streamline the application process by combining a request for TAS eligibility for 303(c) and 303(d) into a single application. Although a tribe is not required to do so, EPA's approach allows a tribe to submit a combined application, which addresses the criteria and application requirements of sections 131.8 and 130.16, to EPA if the tribe is interested in applying for TAS for both the CWA Section 303(c) and 303(d) Programs.

VI. What special circumstances may exist regarding qualification for TAS for the CWA Section 303(d) Impaired Water Listing and TMDL Program?

There could be rare instances where special circumstances limit or preclude a particular tribe's ability to be authorized to administer the 303(d) Program over its reservation. For example, there could be a separate federal statute establishing unique jurisdictional arrangements for a specific state or a specific reservation that could affect a tribe's ability to exercise authority under the CWA. It is also possible that provisions in particular treaties or tribal constitutions could limit a tribe's ability to exercise relevant authority.[12]

Under section 130.16(b), which requires tribal applicants to submit a statement describing their authority to regulate water quality, EPA encourages tribes to include a statement of their legal counsel (or equivalent official) describing the basis for their assertion of authority. The statement can include copies of documents such as tribal constitutions, by-laws, charters, executive orders, codes, ordinances, and resolutions. The provision for a legal counsel's statement is designed to ensure that applicant tribes appropriately describe the bases of their authority and address any special circumstances regarding their assertion of authority to administer the 303(d) Program. The rule provides an appropriate opportunity for "appropriate governmental entities" (*i.e.,* states, tribes and other federal entities located contiguous to the reservation of the applicant tribe) to comment on an applicant tribe's assertion of authority and, among other things, inform EPA of any special circumstances that they believe could affect a tribe's authority to administer the 303(d) Program.

EPA is also aware that section 10211(b) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005 ("SAFETEA"), Public Law 109–59, 119 Stat. 1144 (August 10, 2005) established a unique TAS requirement with respect to Indian tribes located in the State of Oklahoma. Under section 10211(b) of SAFETEA, tribes in Oklahoma seeking TAS under a statute administered by EPA for the purpose of administering an environmental regulatory program must, in addition to meeting applicable TAS requirements under the relevant EPA-administered environmental statute, enter into a cooperative agreement with the state that is subject to EPA approval and that provides for the tribe and state to jointly plan and administer program requirements. This requirement of SAFETEA applies apart from, and in addition to, existing TAS eligibility criteria, including the TAS criteria set forth in section 518 of the CWA. This rule relates solely to the CWA TAS requirement; it thus has no effect on the separate requirement of section 10211(b) of SAFETEA.

What is EPA's position on certain public comments regarding special circumstances?

EPA received several comments asserting that special circumstances limit particular tribes' ability to obtain TAS for the CWA 303(d) Program. For instance, one state asserted that, under federal law specific to that state, the state has primary regulatory authority and jurisdiction for environmental programs throughout the state, including over Indian territories and waters. The state requested that EPA confirm that in this state, a tribe would not be eligible to attain TAS for the 303(d) Program or any other CWA regulatory program. One state asserted that a tribe located in the state is precluded by federal statute specific to that tribe from regulating reservation land that is owned in fee by non-tribal citizens. An industry commenter asserted that the tribe where its facility is located entered into a binding agreement waiving regulatory authority over the commenter's facility, and accordingly, making the tribe ineligible to assert jurisdiction over the facility for CWA purposes.

EPA appreciates the information about special circumstances provided in the comments. Importantly, the precise outcome of any such circumstance could only be determined in the context of a particular tribe's TAS application and upon a full record of information addressing the issue. The substance of these specific situations is thus outside the scope of—and is not affected by—this rule. This rule only establishes criteria and a process for tribes to apply for TAS for the 303(d) Program; it does not adjudicate the outcome of that process for any particular tribe. However, EPA notes that the comments are both illustrative and instructive regarding the types of special circumstances and jurisdictional issues that may affect a tribe's ability to obtain TAS for the 303(d) Program. Federal statutes other than the CWA may, for instance, limit a particular tribe's or group of tribes' ability to participate, in whole or in part, in CWA regulation through the TAS process. Before approving a tribe's TAS eligibility, EPA would carefully consider whether any binding contractual arrangements or other legal documents such as tribal charters or constitutions might affect the tribe's regulatory authority generally, or with regard to any specific members of the regulated community. Finally, under this rule—and consistent with TAS requirements for other regulatory programs—the geographic scope of the reservation boundaries over which a tribe asserts authority would continue to be a relevant and appropriate issue for consideration in the TAS process. Sections 130.16(b)(3) and (c)(2) of this rule require applicant tribes to address these types of issues in their jurisdictional statements and provide states and other appropriate entities an appropriate opportunity to comment and inform EPA of any potential impediments to tribal regulatory authority. These comment opportunities help ensure that EPA's decision making is well informed.

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[12] EPA takes no position in this rule regarding whether any particular tribe or Indian reservation is subject to any potential impediment relating to authority to take on the 303(d) Program. Any such issue would need to be addressed on a case-by-case basis and with the benefit of a full record of relevant information that would be developed during the processing of a particular TAS application. To the extent EPA is ever called upon to make a decision regarding this type of issue, such a decision would be rendered in the context of EPA's final action on a specific TAS application, and any judicial review of that decision would occur in that context.

EPA also received comments on the proposed rule from the State of Oklahoma regarding section 10211(b) of SAFETEA. In its comments, the State of Oklahoma requested additional information regarding the process or sequence of events that will be used to ensure that this provision of SAFETEA is satisfied in the context of particular tribal TAS applications that may be submitted following finalization of this rule. EPA notes that section 10211(b) expressly contains certain procedural requirements—*i.e.,* the state/tribal cooperative agreement must be subject to EPA review and approval after notice and an opportunity for public hearing. Nothing in this rule alters or affects those requirements. Further, because the SAFETEA requirement must be satisfied for a tribe in Oklahoma to obtain TAS to regulate under an EPA statute, the final cooperative agreement must be fully executed and approved by EPA before EPA can approve a 303(d) TAS application. Because the State of Oklahoma is a required signatory to the agreement, this sequence of events ensures that the State will have a full opportunity to participate in the TAS process—separate from opportunities that states have through EPA's TAS notice and comment procedures. Nothing in this rule alters or affects Oklahoma's participation in the SAFETEA cooperative agreement or the requirement that the agreement be in place as a prerequisite to TAS for the 303(d) Program. EPA notes that there are no regulations establishing procedures for the State and applicant tribes to negotiate SAFETEA cooperative agreements or for tribes to submit, and EPA to review, such agreements. There is thus flexibility for the State and applicant tribes in Oklahoma to work together to develop these agreements as they deem appropriate.

VII. What procedure will EPA follow in reviewing a tribe's TAS application?

A. Notice to Appropriate Governmental Entities

The EPA review procedure, included in section 130.16(c), specifies that the Regional Administrator, following receipt of tribal applications, will process such applications in a timely manner. EPA will promptly notify the tribe that the complete application has been received. Within 30 days after receipt of a tribe's complete TAS application for 303(d), EPA will provide notice to appropriate governmental entities (*i.e.,* states, tribes, and other federal entities located contiguous to the reservation of the applicant tribe) of the complete application and the substance of and basis for the tribe's assertion of authority over reservation waters, and will provide a 30-day opportunity to comment to EPA on the tribe's assertion of authority. *See, e.g.,* 56 FR at 64884. EPA will also provide, consistent with prior practice, sufficiently broad notice (*e.g.,* through local newspapers, electronic media, or other appropriate media) to inform other potentially interested entities of the applicant tribe's complete application and of the opportunity to provide relevant information regarding the tribe's assertion of authority. As described below, EPA's notice and comment procedure applies unless such process would be duplicative of a notice and comment process already performed in connection with EPA's approval, after the effective date of this rule, of the same tribe's prior application for TAS for another CWA regulatory program.

B. Avoidance of Duplicative Notice and Comment Procedures

In this rule, EPA includes provisions intended to help avoid unnecessary and wasteful duplication of the notice and comment procedures described in section VII.A. Specifically, the rule (section 130.16(c)(4)) provides that, where a tribe has previously qualified for TAS for a CWA regulatory program[13] and EPA has provided notice and an opportunity to comment on the tribe's assertion of authority as part of its review of the prior application, no further notice would be provided with regard to the same tribe's application for the 303(d) Program, unless the section 303(d) TAS application presents different jurisdictional issues or significant new factual or legal information relevant to jurisdiction to the Regional Administrator.

Where different jurisdictional issues or information are not present, additional notice and comment regarding the tribe's assertion of jurisdiction would be duplicative of the process already undertaken during EPA's review of the prior TAS application. Under these circumstances, the rule avoids such duplication of efforts by providing that the relevant EPA Regional Administrator will process a TAS application for the 303(d) Program without a second notice and comment process.

Where different jurisdictional issues or new or changed information are present, the notice and comment process described in section 130.16(c)(2) applies. For example, if the geographic reservation area over which an applicant tribe asserts authority is different from the area covered by a prior TAS application or EPA approval, the process in section 130.16(c)(2) applies and provides an appropriate opportunity for comment on the tribe's assertion of authority over the new area. In such circumstances, a tribe may find it appropriate and useful to update its prior TAS application at the same time it applies for TAS for 303(d). This would help ensure that the tribe's TAS eligibility for the various CWA programs covers the same geographic area. Such a combined TAS application would be subject to the section 130.16(c)(2) notice and comment process.

This approach applies *prospectively* only, *i.e.,* where the tribe obtains TAS for the CWA Section 303(c) WQS Program, CWA Section 402 NPDES Program or Sludge Management Program, or CWA section 404 dredge and fill Permit Program *after* the effective date of this rule. In other words, if a tribe first gains TAS for 303(c) or another CWA regulatory program *after* this rule is finalized, and subsequently seeks TAS for the 303(d) Program, additional notice and comment would not be required as part of the 303(d) TAS application unless different jurisdictional issues or significant new factual or legal information relevant to jurisdiction are presented in the 303(d) application. However, if a tribe had been approved for TAS only for 303(c) or another CWA program prior to the effective date of this rule, the notice and comment procedures of section 130.16(c)(2) will apply. Further notice and comment may not be necessary, for example, where a tribe has been approved for a TAS application for 303(c) (WQS) after the effective date of this rule, and then subsequently applies for TAS for the 303(d) Program. If that tribe had previously demonstrated that it may effectuate the congressional delegation of authority for a CWA regulatory program, and the tribe is applying for the same geographic area, a new notice and comment procedure generally would not be needed for the 303(d) TAS. A tribe in this circumstance might note in its 303(d) TAS application that it is applying for the same geographic scope and using the same legal basis as the previous CWA TAS regulatory approval.

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[13] Specifically, the CWA Section 303(c) WQS Program, CWA Section 402 NPDES Program or Sewage Sludge Management Program, or CWA Section 404 Dredge and Fill Permit Program.

EPA notes that the notice and comment procedures (and the exemption thereto) described in this rule relate solely to tribal assertions of authority as part of TAS applications. They do not address any issues relating to notice and comment on section 303(d) lists and TMDLs associated with 303(d) Program implementation by a TAS-eligible tribe.

1. What did EPA consider regarding the notice and comment exemption?

In the proposed rule, EPA proposed to apply this exemption generally—that is, to all tribal applications that meet the exemption criteria even if the earlier CWA TAS approval occurred prior to the finalization of the 303(d) TAS rule. EPA requested comment on its proposed exemption and alternative approaches. In addition, we requested comment on whether the section 130.16(c)(4) notice and comment exemption should instead be available only prospectively—*i.e.,* only where the applicant tribe obtains TAS for the CWA Section 303(c) WQS Program, CWA Section 402 NPDES Program or Sewage Sludge Management Program, or CWA Section 404 Dredge and Fill Permit Program *after* the rule is finalized (and, again, only if different jurisdictional issues or significant new factual or legal information relevant to jurisdiction are not present in the tribe's 303(d) TAS application). EPA also considered not providing such a notice and comment exemption, regardless of whether tribes have obtained TAS for other CWA regulatory programs.

2. What is EPA's position on certain public comments regarding notice and comment?

EPA received several comments on the proposed notice and comment approach, including from several tribes, several states, one local government, and one non-governmental organization. The tribal commenters generally expressed support for the proposed approach, noting that tribes that have TAS approval for another CWA program should not have to go through additional delay for a duplicative notice and comment process. Two tribal commenters also noted that the approach should not be limited to prospective applications, with one commenter asserting that anyone with objections to previous applications already had an opportunity to express those concerns. States, local entities, and industry generally opposed the proposed streamlined notice and comment approach. One state asserted that states should have an opportunity to comment on all applications, regardless of previous TAS applications. One state commenter, while generally opposed to the approach, indicated that the approach at a minimum should be applied prospectively only. One state asserted that the proposed approach would not provide an opportunity to have input to the development of a new tribal program. Another state noted that the public should have an opportunity to comment on a program such as 303(d) that may have more direct and broader public implications than other TAS programs. One state commenter supported the proposed approach, but said that it should be applied prospectively only. A local government and a nongovernmental organization asserted that the approach limits due process and expands tribal control over non-tribal persons and lands.

EPA agrees with the commenters who supported the proposed approach as an effective and efficient means to ensure appropriate notice procedures on tribal assertions of authority in 303(d) TAS applications, while avoiding unnecessary and wasteful duplication. EPA also appreciates, but disagrees with, the comments that additional notice and comment should be required, regardless of previous CWA TAS applications. As discussed previously, where different jurisdictional issues or information are not present, additional notice and comment procedures would be duplicative of the process already undertaken during EPA's review of a prior TAS application. Eliminating unnecessary burdens is consistent with longstanding EPA and Executive policy to support tribal self-determination and promote and streamline tribal involvement in managing and regulating their lands and environments. *See, e.g.,* Executive Order 13175, 65 FR 67249, November 9, 2000; Presidential Memorandum: Government-to-Government Relations with Native American Tribal Governments, 59 FR 22951, April 29, 1994; EPA Policy for the Administration of Environmental Programs on Indian Reservations, November 8, 1984.[14] This rule thus maintains the notice and comment exemption in section 130.16(c)(4).

EPA also notes that the notice and comment procedures described in this rule are not required by the CWA or other federal law. Instead, they are provided by EPA as a matter of the Agency's discretion to ensure that EPA's decision making on tribal assertions of authority in TAS applications is well-informed, including by any relevant information that may be made available by appropriate governmental entities.

EPA has, however, decided to make the notice and comment exemption available only prospectively. Limiting the notice and comment exemption to prospective applications is appropriate because the notice and comment exemption will not provide any streamlining benefit to tribes with prior CWA TAS approvals in light of EPA's recent publication of an interpretive rule revising the Agency's approach to tribal jurisdiction under the CWA. *Revised Interpretation of Clean Water Act Tribal Provision,* 81 FR 30183 (May 16, 2016). In the interpretive rule, EPA announced the Agency's conclusion that section 518 of the CWA includes a delegation of authority from Congress to eligible tribes to regulate waters throughout their reservations under the statute, irrespective of who owns the relevant reservation area. This revised interpretation thus eliminated the need for tribes seeking TAS for the purpose of administering a CWA regulatory program to demonstrate their inherent authority to regulate reservation water resources under principles of federal Indian law. To date, all of the tribes that have been approved by EPA for eligibility to administer a CWA regulatory program were approved consistent with EPA's prior (pre-interpretive rule) approach to tribal jurisdiction. Because the interpretive rule revised EPA's approach to tribal jurisdiction, new TAS applications for a CWA regulatory program, including the 303(d) Program, will proceed under the revised interpretation, thus presenting a different jurisdictional issue than prior applications. Even if EPA opted to apply the notice and comment exemption retrospectively, the procedures of section 130.16(c)(2) would apply in all such cases because the circumstances authorizing the exemption of section 130.16(c)(4) will be absent. Applying the exemption retrospectively would not provide the intended streamlining benefit, given the existence of different jurisdictional issues. Going forward, however, EPA will apply the exemption per the provisions in section 130.16(c)(4).

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[14] *EPA Policy for the Administration of Environmental Programs on Indian Reservations,* November 1984, available at *https://www.epa.gov/tribal/epa-policy-administration-environmental-programs-indian-reservations-1984-indian-policy.*

C. Treatment of Competing or Conflicting Claims

Where a tribe's assertion of authority is subject to a competing or conflicting claim, the procedures in this rule provide that the Regional Administrator, after due consideration and in consideration of any other comments received, will determine whether the tribe has adequately demonstrated authority to regulate water quality on the reservation for purposes of the 303(d) Program. Where the Regional Administrator concludes that a tribe has not adequately demonstrated its authority with respect to an area in dispute, then tribal assumption of the CWA Section 303(d) Impaired Water Listing and TMDL Program may be restricted accordingly. If a dispute is focused on a limited area, this would not necessarily delay EPA's decision to treat the tribe in a similar manner as a state for non-disputed areas.

This procedure does not imply that states, tribes, other federal agencies, or any other entity have veto power over tribal TAS applications. Rather, it is intended to assist EPA in gathering information that may be relevant to the Agency's determination whether the applicant tribe has the necessary authority to administer the CWA Section 303(d) Impaired Water Listing and TMDL Program. EPA will consider comments but will make an independent evaluation of the tribal showing.

D. EPA's Decision Process

The rule requires EPA to process a tribe's TAS application in a timely manner, but does not specify a precise time frame for review of tribal TAS applications. Each TAS application will present its own set of legal and factual issues, and EPA anticipates that in some cases it may be necessary to request additional information when examining tribal TAS applications. Similarly, the Agency's experience with states applying for various EPA programs and with tribes applying for TAS for the WQS Program indicates that additional engagement between EPA and the applicant may be necessary before final decisions are made. EPA expects that similar exchanges with tribes will often be helpful and enhance EPA's processing of tribal TAS applications for the CWA Section 303(d) Impaired Water Listing and TMDL Program.

Where the Regional Administrator determines that a tribal TAS application satisfies the requirements of section 130.16(a) and (b), the Regional Administrator will promptly notify the tribe that the tribe has qualified for TAS for the CWA Section 303(d) Impaired Water Listing and TMDL Program. A decision by the Regional Administrator that a tribe does not meet the requirements for TAS for purposes of the CWA Section 303(d) Impaired Water Listing and TMDL Program would not preclude the tribe from resubmitting an application at a future date. If the Regional Administrator determines that a tribal application is deficient or incomplete, EPA will identify such deficiencies and gaps so the tribe can make changes as appropriate or necessary.

VIII. What are EPA's expectations regarding WQS and WQS TAS as prerequisites for tribes applying for TAS authority for the 303(d) Program?

This final rule does not require tribes to have applicable WQS in place for their reservation waters prior to applying for TAS eligibility for the 303(d) Program. The rule also does not require tribes seeking TAS eligibility for the 303(d) Program to have previously obtained EPA approval for TAS for the WQS Program. Under section 303(d), however, states and authorized tribes must develop lists of impaired waters and TMDLs based on applicable WQS. CWA sections 303(d)(1) and (2). Accordingly, EPA expects that the tribes most likely to be interested in applying for TAS for the 303(d) Program will be those that also have TAS for CWA section 303(c) and have applicable WQS for their reservation waters. EPA has taken final action approving TAS for WQS for 53 tribes. Forty-two of those tribes have EPA-approved WQS, and one tribe without TAS for WQS has EPA-promulgated WQS.[15] These tribes will already have demonstrated an interest in directly administering certain fundamental elements of the CWA as well as the capacity to do so.

Since applicable WQS are a foundation of the CWA's water quality-based approach to protecting our nation's waters, EPA recommends that establishing EPA-approved/EPA-promulgated WQS for reservation water bodies is an important first step for tribes interested in protecting and restoring their reservation waters. As tribes gain experience developing and administering applicable WQS on their reservations, they may become interested in greater involvement in additional CWA programs—such as the 303(d) Program—designed to ensure that applicable WQS are achieved. Obtaining TAS to implement a CWA Section 303(d) Impaired Water Listing and TMDL Program for its reservation waters is one potential next step for interested tribes.

Table 1 is an example of a step-wise approach that tribes may follow in developing their water quality programs under the CWA and ultimately seeking TAS for the CWA Section 303(d) Impaired Water Listing and TMDL Program. This is only one possible approach. Many of the identified steps could be completed in parallel rather than sequentially. In particular, this approach does not preclude a tribe from seeking TAS for the 303(d) Program, either separately or concurrently with TAS for the WQS Program.

TABLE 1—EXAMPLE OF A STEP-WISE APPROACH TO REGULATORY ACTIVITIES FOR TRIBES INTERESTED IN APPLYING FOR TAS AUTHORITY TO IMPLEMENT THE CWA SECTION 303(d) IMPAIRED WATER LISTING AND TMDL PROGRAM

Step 1: Tribe seeks TAS for CWA 303(c) WQS	• Tribe decides to evaluate and address water quality within its reservation by establishing WQS under the CWA. • Tribe identifies and inventories reservation water bodies. • Tribe applies for TAS for WQS. • EPA approves tribe's TAS application.
Step 2: Tribe Adopts WQS	• Tribe develops its water quality goals. • Tribe drafts and adopts WQS and submits for EPA approval. • EPA approves tribal WQS.

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[15] EPA maintains a current list of authorized tribes and tribal WQS approvals at *https://www.epa.gov/wqs-tech/epa-approvals-tribal-water-quality-standards.*

TABLE 1—EXAMPLE OF A STEP-WISE APPROACH TO REGULATORY ACTIVITIES FOR TRIBES INTERESTED IN APPLYING FOR TAS AUTHORITY TO IMPLEMENT THE CWA SECTION 303(d) IMPAIRED WATER LISTING AND TMDL PROGRAM—Continued

Step 3: Tribe seeks TAS for CWA Section 303(d) Impaired Water Listing and TMDL Program.	• Tribe decides to assess water quality conditions against applicable WQS (*i.e.*, comparing water quality monitoring data and information against applicable WQS), identify impaired waters, and develop TMDLs. • Tribe applies for TAS to implement a 303(d) Program under the CWA. • EPA approves TAS for 303(d).
Step 4: Tribe implements the CWA Section 303(d) Impaired Water Listing and TMDL Program.	Tribe conducts activities identified in 40 CFR 130.7, including but not limited to: • Assembles and evaluates all existing and readily available water quality-related data and information on reservation water bodies. • Develops section 303(d) list of impaired waters (that is, reservation water bodies that do not meet or are not likely to meet applicable WQS). • Prioritizes list of impaired water bodies for TMDL development. • Submits section 303(d) list to EPA for approval. • Develops TMDLs for listed waters. • Submits TMDLs to EPA for approval.
Step 5: Tribe implements TMDLs (not required by 40 CFR 130.7)	• Tribe carries out watershed-specific plans and actions to implement TMDLs. • Tribe monitors TMDL implementation and effectiveness.
Step 6: Tribe seeks other CWA regulatory programs	Possibilities include: • CWA Section 402 NPDES Program. • CWA Section 405 Sewage Sludge Management Program. • CWA Section 404 Dredge and Fill Permit Program.

A. What did EPA consider regarding WQS and WQS TAS as prerequisites for 303(d) TAS?

In the proposed rule, EPA did not propose to require tribes to have CWA-applicable WQS—*i.e.,* either approved by EPA or promulgated by EPA—in place on their reservations prior to applying for TAS eligibility under CWA section 518 for purposes of administering the 303(d) Program. This approach is consistent with other CWA and EPA programs, which authorize tribes to seek TAS eligibility without requiring as a prerequisite the existence of any separate EPA-approved tribal environmental programs. Because the listing of waters and development of TMDLs under section 303(d) must be based on applicable WQS (see CWA sections 303(d)(1) and (2)), EPA specifically invited public comment in the proposed rule on whether applicable WQS should instead be a prerequisite for obtaining TAS eligibility for the CWA Section 303(d) Impaired Water Listing and TMDL Program. EPA also invited public comment on whether a tribe applying for TAS for the 303(d) Program should be required to have already received EPA approval—or at least simultaneously apply—for TAS for the CWA Section 303(c) WQS Program.

B. What is EPA's position on certain public comments regarding WQS and WQS TAS as prerequisites for 303(d) TAS?

EPA received comments on this topic from several tribes and tribal organizations, as well as several states. Two tribal organizations and one tribe asserted that applicable WQS should not be required prior to a tribe applying for TAS for the 303(d) Program. One of these tribal commenters reasoned that developing WQS requires time and should not be a barrier to tribes seeking 303(d) TAS. Another tribe asserted that WQS should not be required, in order to allow for an expedited process for a tribe seeking 303(d) TAS. One tribe commented that WQS should be required because lists of impaired waters must be based on applicable WQS. Five states asserted that WQS should be required because lists must be based on applicable WQS. One of these states also commented that both WQS and TAS for 303(c) should be required. Another state commented that resources would be wasted by tribes developing applications, and by the government in reviewing applications, for a program that tribes cannot implement without WQS.

EPA also received comments on whether a tribe should have TAS for 303(c) before applying for 303(d) TAS, or at least apply concurrently for 303(c) and 303(d) TAS. Two tribes asserted that TAS for 303(c) should not be a requirement in order for a tribe to seek 303(d) TAS. Two states supported the opposite position: That TAS for 303(c) should be in place before a tribe applies for 303(d) TAS. Another state also asserted that tribes should apply for 303(c) TAS prior to, or at least concurrent with, their application for 303(d) TAS.

EPA agrees with the commenters that WQS are the basis for the development of impaired waters lists and TMDLs. See sections 303(d)(1) and (2). As discussed in Section IV, under section 303(d) of the CWA, every two years authorized tribes would be required to develop lists of waters not meeting, or not expected to meet, applicable water quality standards. 40 CFR 130.7(d). Impaired waters are waters for which technology-based limitations and other required controls are not stringent enough to meet applicable CWA water quality standards. Under section 303(d), a tribe would use applicable WQS as the basis for identifying impaired waters and calculating TMDLs, which quantify the maximum amount of a pollutant that a water body can receive and still meet the WQS.

Although 303(d) lists and TMDLs are developed based on applicable WQS, EPA disagrees that the Agency should impose a regulatory requirement that such WQS must be in place before a tribe can apply under section 518 for 303(d) TAS eligibility. Similarly, EPA disagrees that the Agency should impose a regulatory requirement that a tribe must have TAS for 303(c) prior to applying for 303(d) TAS. This rule establishes the process for a tribe to seek TAS for the 303(d) Program. The process of applying for 303(d) TAS eligibility under section 518 is a separate step distinct from the process of implementing section 303(d) through the development of 303(d) lists or

TMDLs. The TAS review focuses on the applicant tribe's governmental functions, authority, and capability to administer the program. Approval of the tribe's TAS application does not, by itself, allow the tribe to submit lists of impaired waters and establish TMDLs. Authorizing tribes to seek TAS eligibility in the absence of applicable WQS thus creates no conflict with the CWA requirement that such WQS provide the basis for 303(d) lists and TMDLs. Once a tribe has TAS for the 303(d) Program, the tribe would still be required to develop lists and TMDLs on the basis of applicable WQS, once they are in place. In addition, the 303(d) TAS application process is designed to provide an opportunity for tribes to begin to engage with the 303(d) Program. . . . EPA does not intend for it to act as a barrier. Requiring applicable WQS as a prerequisite to a TAS application would establish an unnecessary barrier to tribes seeking TAS eligibility for the 303(d) Program. *See, e.g.,* EPA Policy for the Administration of Environmental Programs on Indian Reservations, November 8, 1984 and Executive Order 13175, 65 FR 67249, November 9, 2000.

EPA notes that, under this approach, tribes seeking and obtaining 303(d) TAS eligibility will have ample opportunity to develop and seek EPA approval or establishment of WQS that would be the basis for section 303(d) implementation. This rule takes into consideration the time needed for development of WQS. As indicated in section 130.16(c)(5) of this rule, an authorized tribe's first impaired waters list must be submitted to EPA on the next listing cycle due date that is at least 24 months from the later of: (1) The date the tribe's TAS application for 303(d) is approved or (2) the date EPA-approved/promulgated WQS for the tribe's waters are effective.

Similarly, making TAS for section 303(c) a requirement for tribes seeking TAS for 303(d) would be unduly restrictive of tribal options regarding the development of WQS and implementation of the 303(d) Program. As discussed, eligible tribes may develop lists or TMDLs under 303(d) based on any WQS that are "applicable" under the Act. "Applicable" WQS include EPA-approved tribal WQS as well as those promulgated by EPA. *See* CWA sections 303(d)(1) and (2). Thus, a tribe may reasonably decide to seek TAS for section 303(d) now to prepare itself to develop lists and TMDLs in anticipation of having either EPA-approved tribal or EPA-promulgated WQS in place at a later date. Requiring a tribe to apply for and receive 303(c) TAS to develop its own WQS would be an unnecessary step for a tribe seeking to develop lists and TMDLs based on EPA-promulgated WQS. In fact, requiring a tribe to have 303(c) TAS prior to seeking 303(d) TAS would prevent a tribe from choosing to implement federal WQS under section 303(d), without also unnecessarily expending resources to pursue 303(c) TAS.

Finally, although EPA expects that the tribes most likely to be interested in applying for TAS for section 303(d) will be those that also have TAS for section 303(c) and have applicable WQS, the rule should not preclude other tribes from obtaining TAS status for section 303(d), and thus ensuring that TAS eligibility requirements are satisfactorily addressed prior to expending resources on developing WQS. While one commenter asserted that resources would be wasted on 303(d) applications in the absence of tribal WQS, EPA disagrees and concludes that the approach finalized in this rule will allow tribes, at their discretion, to streamline and minimize expenditures on TAS procedures. For example, a tribe could combine TAS requests for sections 303(c) and 303(d) into a single application—an option that EPA encourages, but does not require. Requiring that WQS be in place prior to applying for 303(d) TAS would eliminate the ability for tribes to streamline their TAS applications by applying concurrently for 303(c) and 303(d) TAS. In any event, questions regarding how best to expend tribal resources and to organize and address tribal environmental priorities in pursuing eligibility for CWA programs should be left to the sovereign decision making of tribal governments.

IX. What financial and technical support is available from EPA to tribes as they choose to develop and implement a CWA Section 303(d) Impaired Water Listing and TMDL Program?

Pre-proposal input from tribes indicated that resources and funding available for TMDL development would be important considerations for tribes in deciding whether to apply for TAS for CWA section 303(d) purposes. During the public comment period, EPA also received comments from tribes reiterating the importance of funding and technical assistance for tribes interested in TAS for the 303(d) Program. As noted in section XI.F of the preamble to this rule, EPA considered tribal comments in developing this final rule, and intends to remain sensitive to tribal resource issues in its budgeting and planning process. EPA understands the tribes' resource concerns, but observes that the Impaired Water Listing and TMDL Program is not a grant program, and no federal grant funds are available directly from the Impaired Water Listing and TMDL Program. A tribe may be able to use its General Assistance Program (GAP) Grant under the Indian Environmental General Assistance Program Act to support development of a section 303(d) Program and capacity to implement such a program, but GAP funds are not available for ongoing 303(d) Program implementation. Tribes interested in using GAP funds should contact their Regional GAP Program coordinator. In addition, other potential sources of tribal funding, such as CWA section 319 grants and section 106 grants, are already tightly constrained and may not be available to support additional work under section 303(d). Some tribes that receive CWA funding may be able to identify program activities that could also support 303(d) activities (*e.g.,* assessing water quality to develop impaired water lists), but the availability of such funding opportunities is uncertain.

As resources allow, EPA may be able to work cooperatively with tribes, as appropriate, on impaired water listing and TMDL issues in Indian country. For example, EPA intends to develop training and/or provide other technical support to tribes interested in obtaining TAS for 303(d) and implementing a CWA Section 303(d) Impaired Water Listing and TMDL Program if EPA staff and other resources are available to do so. As a general matter, however, EPA cannot assure that funding will be available for a tribe to develop or implement the 303(d) Program; a tribe considering whether to apply to administer the Program should carefully assess its priorities and the availability of EPA assistance or other resources.

X. What is EPA's position on certain other public comments received?

In this section, EPA responds to several additional topics that were raised in public comments.

A. Impact on State/Local Authority for CWA Programs

EPA received several comments regarding the impact of the rule on local and state authority over water quality programs. One state commented that the rule should clarify the meaning of "within the borders of the Indian reservation" to reflect that a state may have legal holdings within the exterior border of a reservation that do not qualify as Indian land. One local government commented that the proposed rule supplants the role of state and local governments in managing county or municipal waters on Indian reservations, and tribal jurisdiction applies only to federal trust parcels. The local government commenter also asserted that states, counties, and municipalities are complying with section 303(d) and therefore there is no need to expand tribal government involvement. The commenter further asserted that the rule would exacerbate state-tribal jurisdictional issues. A local water organization also commented that the rule supplants state and local authority, asserting that only the state has regulatory authority over water in the states.

EPA appreciates these comments and wishes to clarify that this rule has no effect on the scope of existing state implementation of section 303(d). Generally speaking, civil regulatory authority in Indian country lies with the federal government and the relevant Indian tribe, not with the states. *See, e.g., Alaska* v. *Native Village of Venetie Tribal Gov't,* 522 U.S. 520, 527 n.1, 1998. In the absence of an express demonstration of authority by a state for such areas, and an EPA finding that the state has authority for those Indian country waters, EPA has generally excluded Indian country from its approvals of state regulatory programs under the CWA and excluded waterbodies in Indian country from its approval of state 303(d) lists and TMDLs.

This rule relates solely to the process for tribes to seek TAS for the purpose of administering CWA section 303(d) over their reservation waters; it has no effect on the scope of existing CWA regulatory programs administered by states. It neither diminishes nor enlarges the scope of such approved state programs.

There are uncommon situations where a federal statute other than the CWA grants a state jurisdiction to regulate in areas of Indian country. For example, in a few cases EPA has approved states to operate CWA regulatory programs in areas of Indian country where the states demonstrated jurisdiction based on such a separate federal statute. This rule does not address or affect such jurisdiction that other federal statutes may provide to states.

B. Relation to May 16, 2016, Interpretive Rule

Several of the comments EPA received on the proposed rule raised issues relating to EPA's separate interpretive rule revising the Agency's approach to tribal jurisdiction under the CWA. The interpretive rule was pending at the time EPA received these comments, but the rule has since been finalized. 81 FR 30183. One commenter supported the interpretive rule and asked EPA to cross-reference it in the 303(d) TAS rule. One state asked how the interpretive rule would be applied where there is state-specific law addressing unique issues arising in that state. Two states, one local government, and two industry commenters expressed opposition to the interpretive rule. Reasons for opposing the re-interpretation included objections to tribal jurisdiction over non-member activities and concern regarding impacts on state CWA programs.

EPA appreciates the issues raised by the commenters but notes that any questions or comments regarding the interpretive rule are outside the scope of this final rule. This rule relates solely to the procedures that will apply to tribal applications for TAS for the section 303(d) Program and to EPA's review of such applications. This rule thus fills a gap in TAS infrastructure, and fulfills the requirement of CWA section 518(e) that EPA promulgate final regulations specifying how tribes shall be treated as states for purposes of section 303(d). This rule provides appropriate TAS procedures irrespective of which interpretation of tribal jurisdiction applies. The rulemaking itself neither adopts, nor implements, any particular approach to tribal jurisdiction. It simply provides a process for tribes to apply for TAS, and for EPA to review such applications (with relevant input from appropriate governmental entities and others). Any application of EPA's revised approach to tribal jurisdiction under section 518 as described in the final interpretive rule would occur in the context of EPA's final decision on a particular tribe's TAS application for a CWA regulatory program, in this case the 303(d) Program. EPA also notes that the issues raised by commenters regarding the then-proposed interpretive rule were addressed by EPA in the context of finalizing that rule. 81 FR 30183.[16]

XI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

The Office of Management and Budget (OMB) determined that this action is not a significant regulatory action and therefore it was not submitted to the OMB for review.

B. Paperwork Reduction Act (PRA)

EPA has submitted the information collection requirements in this legislative rule to OMB for approval under the PRA. The Information Collection Request (ICR) document that EPA prepared has been assigned EPA ICR number 2553.02. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. This ICR supplements the current information collection requirements in EPA ICR number 1560.11 (National Water Quality Inventory Reports (Renewal)) and addresses the tribes' CWA Section 303(d) Impaired Water Listing and TMDL TAS application and 303(d) Program implementation burden, as well as EPA's burden for reviewing the tribes' applications and 303(d) Program submittals. ICR 1560.11 is a renewal of ICR 1560.10. OMB approved ICR number 1560.11 in March 2016.

This legislative rule establishes a process for tribes to obtain TAS for the 303(d) Program. As described in the ICR, EPA estimates the total burden on tribes to apply for TAS for the 303(d) Program would be 3,240 staff hours annually for an estimated 12 tribes that would apply for and receive TAS approval per year.

Tribes that receive TAS approval and have applicable WQS will then need to implement the requirements of section 303(d) to list impaired waters, set TMDL priorities, and develop TMDLs. EPA estimates that such 303(d) Program implementation burden would entail 86,664 staff hours annually for the estimated 12 tribes. ICR 1560.11 already includes the estimated burden for states to implement section 303(d), but does not include estimates for tribes. Therefore, the ICR for this rule includes the tribal section 303(d) implementation burden as well as the TAS application burden described in the previous paragraph.

As discussed in section V of this notice, EPA's regulations require that a tribe seeking to administer a CWA regulatory program must submit information to EPA demonstrating that the tribe meets the statutory criteria described in section V. EPA requires this information in order to determine that the tribe is eligible to administer the 303(d) Program. The CWA would require an authorized tribe to submit additional information to EPA—in this case, the lists of impaired waters and the TMDLs—once the tribe begins implementing the 303(d) Program.

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[16] *EPA's Response to Public Comments on Revised Interpretation of Clean Water Act Tribal Provision* at *https://www.regulations.gov/document?D=EPA-HQ-OW-2014-0461-0110.*

Respondents/affected entities: Any federally recognized tribe with a reservation can potentially apply to administer a regulatory program under the CWA. Tribes with TAS for the 303(d) Program would then implement the Program, as described in section IV.

Respondent's obligation to respond: The information discussed in this rule is required from a tribe only if the tribe seeks TAS and is found eligible to administer a CWA Section 303(d) Impaired Water Listing and TMDL Program. See EPA's regulations cited in section V of this notice.

Estimated number of respondents: Over 300 tribes with reservations could potentially apply for 303(d) TAS. Although there are 567 federally recognized Indian tribes in the United States as of this rule, the CWA allows only those tribes with reservations to apply for authority to administer programs. EPA estimates that an average of 12 tribes per year would apply under this rule, and an average of 12 tribes per year would implement the 303(d) Program over the three year period of the ICR.

Frequency of response: Application by a tribe to be eligible to administer the 303(d) Program is a one-time collection of information. Authorized tribes implementing the 303(d) Program would submit impaired water lists to EPA every two years, and submit TMDLs to EPA from time to time as described in section IV of this notice.

Total estimated burden: 89,904 tribal staff hours per year for TAS for 303(d) Program application activities and 303(d) Program implementation activities. Burden is defined at 5 CFR 1320.3(b).

This estimate may overstate actual burden because EPA used a conservatively high estimate of the annual rate of tribal applications. This conservatively high estimate was used to ensure that the ICR does not underestimate tribal burden, given that EPA used a simplifying steady-state assumption in estimating annualized tribal application costs. Also, EPA used conservatively high estimates of 303(d) Program implementation burden (*i.e.,* 303(d) listing and number of TMDLs that tribes would submit to EPA annually), as further described in the ICR number 2553.02.

Total estimated cost: $4,185,264, including staff salaries and the cost of support contractors for an annual average of 12 tribes to apply for TAS and implement the 303(d) Program. This action does not include capital or operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This action affects only Indian tribes that seek TAS for the CWA Section 303(d) Impaired Water Listing and TMDL Program.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

This action only applies to tribal governments that seek eligibility to administer the 303(d) Program. Although it could be of interest to some state governments, it does not apply directly to any state government or to any other entity.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and state and local governments, EPA consulted with state associations and representatives of state governments to obtain meaningful and timely input for consideration in this rule. By letter dated September 19, 2014, EPA invited 10 national and regional state associations to an October 1, 2014, informational meeting at EPA in Washington, DC.[17] As a result of this meeting and other outreach, EPA participated in two subsequent meetings with a subset of these associations and their members as well as certain individual states during October 2014. Records of these meetings and copies of written comments and questions submitted by states and state associations are included in the docket for this rule.

Some participants expressed interest in: (1) The nature of comments received from tribes during the pre-proposal tribal consultation and coordination (April 8–June 6, 2014); (2) where they could find the list of tribes having TAS for the WQS Program; (3) whether the TAS process for CWA Section 303(d) Impaired Water Listing and TMDL Program would be consistent with other TAS processes; and (4) whether there is a process in place to consult with states where a tribe applies for TAS for 303(d). Some states also had questions about issues unique to their situations. EPA considered this input in developing the rule, particularly in developing sections V to IX. EPA also consulted with state associations and state representatives during the public comment period, including a webinar for state representatives and informational communications with individual state representatives. In comments on the proposed rule, most states generally were neutral regarding the proposed rule overall. Some states cited special circumstances regarding applicability of the rule in their states, or provided comments objecting to EPA's proposed (now final) interpretive rule regarding tribal jurisdiction under the CWA. See *Revised Interpretation of Clean Water Act Tribal Provision,* 81 FR 30183 (May 16, 2016).

F. Executive Order 13175: Tribal Consultation and Coordination

This action has tribal implications because it will directly affect tribes interested in administering the CWA Section 303(d) Impaired Water Listing and TMDL Program. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. Thus, this action is not subject to consultation under Executive Order 13175. Tribes are not required to administer a 303(d) Program. Where a tribe chooses to do so, the rule provides a regulatory process for the tribe to apply and for EPA to act on the tribe's application.

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[17] The ten associations were: The National Governors Association, the National Conference of State Legislatures, the Council of State Governments, the Western Governors' Association, the Southern Governors' Association, the Midwestern Governors Association, the Coalition of Northeastern Governors, the Environmental Council of the States, the Association of Clean Water Administrators, and the Western States Water Council.

EPA consulted and coordinated with tribal officials under the EPA Policy on Consultation and Coordination with Indian Tribes early in the process of developing this regulation to permit them to have meaningful and timely input into its development. A summary of that consultation and coordination follows.

EPA initiated a tribal consultation and coordination process for this action by sending a ''Notification of Consultation and Coordination'' letter on March 28, 2014, to all 566 federally-recognized tribes as of that date.[18] The letter invited tribal leaders and designated consultation representative(s) to participate in the tribal consultation and coordination process. EPA held a webinar concerning this matter for tribal representatives on April 29, 2014. A total of 46 tribal representatives participated. Additionally, tribes and tribal organizations sent five pre-proposal comment letters to EPA. Records of this webinar and copies of written comments and questions submitted by tribes and intertribal consortia are included in the docket for this rule. Tribal comments generally supported EPA's plan to propose a TAS rule for the 303(d) Program. Some comments expressed the need for additional financial and technical support as tribes obtain TAS for the CWA Section 303(d) Impaired Water Listing and TMDL Program.

During the 60-day public comment period on the proposed rule in 2016, EPA provided informational webinars for tribes and conducted further consultation and coordination with tribes. EPA initiated a tribal consultation and coordination process on the proposed rule by sending a ''Notification and Coordination'' letter on January 19, 2016, to the 566 federally-recognized tribes as of that date. Following the public comment period, EPA also participated in informational meetings with tribes. As noted in Section I, EPA received comments from nine tribes and tribal associations on the proposed rule. Tribal comments generally supported the proposed rule. Several comments re-iterated the need for additional funding and technical support as tribes begin to implement the 303(d) Program. EPA considered the tribal comments in developing this final rule, and intends to remain sensitive to tribal resource issues in its budgeting and planning process. However, EPA cannot assure or assume that additional funding will be available for a tribe developing or implementing the 303(d) Program. A tribe choosing to administer such programs will need to carefully weigh its priorities and any available EPA assistance as described in section IX above.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to think could disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health or safety risk.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The rule does not have potential to cause disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations. This rule would have no direct impacts on human health or the environment. The rule affects processes and information collection only. The rule puts in place the procedures interested tribes would follow to seek TAS for the CWA Section 303(d) Impaired Water Listing and TMDL Program. The action is likely to result in the collection of information or data that could be used to assess potential impacts on the health or environmental conditions in Indian country (see sections III and IV). As described in sections III and IV above, under CWA section 303(d), authorized tribes with applicable WQS would be required to develop lists of impaired waters, submit these lists to EPA, and develop TMDLs for pollutants causing impairments in the waters on the 303(d) lists. TAS for 303(d) would provide authorized tribes the opportunity to participate directly in protecting their reservation waters through the Section 303(d) Impaired Water Listing and TMDL Program, as Congress intended through CWA section 518(e). EPA also expects this rule will advance the goals of the CWA as interested tribes apply for TAS to administer the CWA Section 303(d) Impaired Water Listing and TMDL Program for reservation water bodies.

The action is likely to increase the availability of water quality information to indigenous populations as interested tribes obtain TAS for the CWA Section 303(d) Impaired Water Listing and TMDL Program and begin implementing the Program. In short, tribes with TAS assume *the primary role* under the CWA in deciding (1) what waters on their reservations are impaired and in need of restoration, (2) the priority ranking for TMDL development, and (3) what the TMDLs and pollutant source allocations for those waters should look like.

EPA provided meaningful participation opportunities for tribes in the development of this rule, as described in ''*F. Executive Order 13175: Tribal Consultation and Coordination,*'' above.

K. Congressional Review Act

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 130

Environmental protection, Grant programs-environmental protection, Indian lands, Intergovernmental relations, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: September 16, 2016.

Gina McCarthy,
Administrator.

For the reasons stated in the preamble, the U.S. Environmental Protection Agency amends 40 CFR part 130 as follows:

PART 130—WATER QUALITY PLANNING AND MANAGEMENT

■ 1. The authority citation for part 130 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

■ 2. Section 130.16 is added to read as follows:

§ 130.16 Treatment of Indian tribes in a similar manner as states for purposes of the Clean Water Act.

(a) The Regional Administrator may accept and approve a tribal application for purposes of administering the Clean

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[18] There are now 567 federally recognized tribes. 81 FR 26826 (May 4, 2016).

Water Act (CWA) Section 303(d) Impaired Water Listing and Total Maximum Daily Load (TMDL) Program if the tribe meets the following criteria:

(1) The Indian tribe is recognized by the Secretary of the Interior and meets the definitions in § 131.3(k) and (l) of this chapter;

(2) The Indian tribe has a governing body carrying out substantial governmental duties and powers;

(3) The CWA section 303(d) Impaired Water Listing and TMDL Program to be administered by the Indian tribe pertains to the management and protection of water resources that are within the borders of the Indian reservation and held by the Indian tribe, within the borders of the Indian reservation and held by the United States in trust for Indians, within the borders of the Indian reservation and held by a member of the Indian tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of the Indian reservation; and

(4) The Indian tribe is reasonably expected to be capable, in the Regional Administrator's judgment, of carrying out the functions of an effective CWA Section 303(d) Impaired Water Listing and TMDL Program in a manner consistent with the terms and purposes of the Act and applicable regulations.

(b) Requests by Indian tribes for administration of the CWA Section 303(d) Impaired Water Listing and TMDL Program should be submitted to the appropriate EPA Regional Administrator. The application shall include the following information, provided that where the tribe has previously qualified for eligibility or "treatment as a state" (TAS) under another EPA-administered program, the tribe need only provide the required information that has not been submitted in a previous application:

(1) A statement that the tribe is recognized by the Secretary of the Interior.

(2) A descriptive statement demonstrating that the tribal governing body is currently carrying out substantial governmental duties and powers over a defined area. The statement should:

(i) Describe the form of the tribal government;

(ii) Describe the types of governmental functions currently performed by the tribal governing body such as, but not limited to, the exercise of police powers affecting (or relating to) the health, safety, and welfare of the affected population, taxation, and the exercise of the power of eminent domain; and

(iii) Identify the source of the tribal government's authority to carry out the governmental functions currently being performed.

(3) A descriptive statement of the tribe's authority to regulate water quality. The statement should include:

(i) A map or legal description of the area over which the tribe asserts authority to regulate surface water quality;

(ii) A statement by the tribe's legal counsel (or equivalent official) that describes the basis for the tribe's assertion of authority and may include a copy of documents such as tribal constitutions, by-laws, charters, executive orders, codes, ordinances, and/or resolutions that support the tribe's assertion of authority; and

(iii) An identification of the surface waters that the tribe proposes to assess for potential impaired water listing and TMDL development.

(4) A narrative statement describing the capability of the Indian tribe to administer an effective CWA Section 303(d) Impaired Water Listing and TMDL Program. The narrative statement should include:

(i) A description of the Indian tribe's previous management experience that may include the administration of programs and services authorized by the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, *et seq.*), the Indian Mineral Development Act (25 U.S.C. 2101, *et seq.*), or the Indian Sanitation Facility Construction Activity Act (42 U.S.C. 2004a);

(ii) A list of existing environmental or public health programs administered by the tribal governing body and copies of related tribal laws, policies, and regulations;

(iii) A description of the entity (or entities) that exercise the executive, legislative, and judicial functions of the tribal government;

(iv) A description of the existing, or proposed, agency of the Indian tribe that will assume primary responsibility for establishing, reviewing, implementing and revising impaired water lists and TMDLs; and

(v) A description of the technical and administrative capabilities of the staff to administer and manage an effective CWA Section 303(d) Impaired Water Listing and TMDL Program or a plan that proposes how the tribe will acquire the needed administrative and technical expertise. The plan must address how the tribe will obtain the funds to acquire the administrative and technical expertise.

(5) Additional documentation required by the Regional Administrator that, in the judgment of the Regional Administrator, is necessary to support a tribal application.

(c) Procedure for processing a tribe's application:

(1) The Regional Administrator shall process an application of a tribe submitted pursuant to § 130.16(b) in a timely manner. The Regional Administrator shall promptly notify the tribe of receipt of the application.

(2) Except as provided below in paragraph (c)(4) of this section, within 30 days after receipt of the tribe's application, the Regional Administrator shall provide appropriate notice. Notice shall:

(i) Include information on the substance and basis of the tribe's assertion of authority to regulate the quality of reservation waters;

(ii) Be provided to all appropriate governmental entities; and

(iii) Provide 30 days for comments to be submitted on the tribal application. Comments shall be limited to the tribe's assertion of authority.

(3) If a tribe's asserted authority is subject to a competing or conflicting claim, the Regional Administrator, after due consideration, and in consideration of other comments received, shall determine whether the tribe has adequately demonstrated that it meets the requirements of § 130.16(a)(3).

(4) Where, after the effective date of this rule, EPA has determined that a tribe qualifies for TAS for the CWA Section 303(c) Water Quality Standards Program, CWA Section 402 National Pollutant Discharge Elimination System Program, or CWA Section 404 Dredge and Fill Permit Program, and provided notice and an opportunity to comment on the tribe's assertion of authority to appropriate governmental entities as part of its review of the tribe's prior application, no further notice to governmental entities, as described in paragraph (c)(2) of this section, shall be provided with regard to the same tribe's application for the CWA Section 303(d) Impaired Water Listing and TMDL Program, unless the application presents to the EPA Regional Administrator different jurisdictional issues or significant new factual or legal information relevant to jurisdiction.

(5) Where the Regional Administrator determines that a tribe meets the requirements of this section, he or she shall promptly provide written notification to the tribe that the tribe is authorized to administer the CWA Section 303(d) Impaired Water Listing and TMDL Program. Such tribe shall be considered a "State" for purposes of CWA section 303(d) and its implementing regulations. With respect

to the timing requirement for submittal of an authorized tribe's first list of impaired waters pursuant to § 130.7(d)(1), the tribe's first list is due on the next listing cycle due date that is at least 24 months from the later of either:

(i) The date EPA approves the tribe's TAS application pursuant to this section; or

(ii) The date EPA-approved or EPA-promulgated water quality standards become effective for the tribe's reservation waters.

[FR Doc. 2016–22882 Filed 9–23–16; 8:45 a.m.]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2015–0791; FRL–9951–60]

Fluopicolide; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation amends tolerances for residues of fluopicolide in or on potato, processed potato waste and vegetable, tuberous and corm, subgroup 1C and establishes a tolerance for residues of fluopicolide in or on potato, granules/flakes. Valent U.S.A. Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA). This regulation also assigns an expiration date to existing tolerances for potato, processed potato waste at 1.0 ppm and vegetable, tuberous and corm, subgroup 1C at 0.3 ppm. Lastly, this regulation establishes a time-limited tolerance on hop, dried cones. The time-limited tolerance is in response to EPA's granting of an emergency exemption under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The time-limited tolerance will expire and revoked on December 31, 2019.

DATES: This regulation is effective September 26, 2016. Objections and requests for hearings must be received on or before November 25, 2016, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2015–0791, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.* To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select "Test Methods and Guidelines."

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2015–0791 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before November 25, 2016. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2015–0791, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Agency's Action

A. Petitioned-For Tolerances

In the **Federal Register** of March 16, 2016 (81 FR 14030) (FRL–9942–86) EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 5F8414) by Valent U.S.A. Corporation, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596. The petition requested that 40 CFR 180.627 be amended by establishing tolerances for residues of the fungicide fluopicolide, 2,6-dichloro-N-[3-chloro-5-(trifluoromethyl)-2-pyridylmethyl]-benzamide, in or on potato, chips at 0.1 parts per million (ppm) and potato, granules/flakes at 0.15 ppm. That document referenced a summary of the petition prepared by Valent U.S.A. Corporation, the registrant, which is available in the docket, *http://www.regulations.gov.* A comment was received on the notice of filing. EPA's response to this comment is discussed in Unit IV.C.

In the **Federal Register** of May 19, 2016 (81 FR 31581) (FRL–9946–02) EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 5F8414) by Valent U.S.A. Corporation, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596. The petition requested that 40 CFR 180.627 be amended by amending tolerances for residues of the fungicide fluopicolide, 2,6-dichloro-N-[3-chloro-5-(trifluoromethyl)-2-pyridylmethyl]-benzamide, in or on potato, processed potato waste at 0.25 ppm and vegetable, tuberous and corm, subgroup 1C at 0.10 ppm. That document referenced a summary of the petition prepared by Valent U.S.A. Corporation, the registrant, which is available in the docket, *http://www.regulations.gov.*

Based upon review of the data supporting the petition, EPA is establishing tolerance levels for potato, processed potato waste and vegetable, tuberous and corm, subgroup 1C that differ from the petition requests and is not establishing a tolerance for residues on potato, chips. The reasons for these changes are explained in Unit IV.D.

B. Tolerance for Use of Pesticide Under Emergency Exemption

In response to a crisis exemption request filed under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) on behalf of the Michigan Department of Agriculture and Rural Development for the emergency use of fluopicolide to control downy mildew on hops grown in Michigan, EPA is establishing, pursuant to FFDCA section 408(l)(6), a time-limited tolerance for the use of fluopicolide on hop, dried cones at 30 ppm with an expiration date of December 31, 2019.

As part of its evaluation of the emergency exemption application, EPA assessed the potential risks presented by residues of fluopicolide on hops. In doing so, EPA considered the safety standard in section 408(b)(2) of FFDCA, and the Agency decided that the necessary tolerance under section 408(l)(6) of FFDCA would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6) of FFDCA. Although this time-limited tolerance expires and is revoked on December 31, 2019, under section 408(l)(5) of FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on hops after that date will not be unlawful, provided the pesticide was applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by the time-limited tolerance at the time of that application. EPA will take action to revoke this time-limited tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this time-limited tolerance is being approved under emergency conditions, EPA has not made any decisions whether fluopicolide meets FIFRA's registration requirements for use in or on hops or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this time-limited tolerance serves as a basis for registration of fluopicolide by a State for Special Local Needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for persons in any State other than Michigan to use this pesticide on hops under FIFRA sction 18 absent the issuance of an emergency exemption applicable within that State. For additional information regarding the emergency exemption for fluopicolide, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . . ."

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for fluopicolide including exposure resulting from the tolerances established by this action.

Fluopicolide shares a metabolite, 2,6-dichlorobenzamide (BAM), with another active ingredient, dichlobenil. Residues of BAM are considered to be of regulatory concern, and separate toxicity data and endpoints for risk assessment have been identified for BAM. Therefore, EPA has considered the aggregate, or combined risks, from food, water, and non-occupational exposure resulting from fluopicolide alone and BAM from all sources for this action. The BAM risk assessment considers residues resulting from both fluopicolide and dichlobenil uses. However, BAM residues generated from fluopicolide uses are expected to be significantly lower than BAM residues from dichlobenil uses.

A. Fluopicolide

In the **Federal Register** of August 6, 2014 (79 FR 45688) (FRL–9914–37), EPA amended tolerances to raise the residue levels of fluopicolide in or on potato, processed potato waste to 1.0 ppm and vegetable, tuberous and corm, subgroup 1C to 0.3 ppm. In March of 2016, the EPA updated the dietary assessment for fluopicolide to account for the use of fluopicolide on hops under an emergency exemption. The March 2016 assessment considered the higher tolerance levels for potato, processed potato waste (1.0 ppm) and vegetable, tuberous and corm, subgroup 1C (0.3 ppm). Since this current action involves lowering the tolerances for potato, processed potato waste to 0.2 ppm and vegetable, tuberous and corm, subgroup 1C to 0.09 ppm, the EPA is relying upon the risk assessments and the findings made for fluopicolide in the August 6, 2014 **Federal Register** document, as well as an updated dietary risk assessment conducted for hops to support the lowering of the tolerances for potato, processed potato waste and vegetable, tuberous and corm, subgroup 1C.

The toxicity profile and the points of departure for evaluating human health for fluopicolide have not changed since the August 6, 2014 rule. EPA conducted a dietary risk assessment to support the Section 18 registration for use of fluopicolide on hops grown in Michigan in March 2016. The March 2016 assessment assumed the same exposure assumptions for assessing food exposure as discussed in Unit III.C. of the 2014 rule, where the analysis assumed 100 percent crop treated (PCT) and tolerance-level residues for all proposed/registered crops except for field corn/wheat grain (rotational crop tolerances) and tuberous and corm vegetables. For these crops, the residues of concern for risk assessment include metabolites that are not included in the tolerance expression, and the analysis assumed the highest combined residues from the field trials. However, the drinking water estimates used in 2016 are higher than those used in 2014 (24.14 ppb) based on the use of the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS), where residues in ground water are now estimated to be 103 ppb. The March 2016 assessment resulted in slightly higher chronic dietary exposure estimates than the August 2014 dietary risk assessment (an increase from 13% to 14% chronic population-adjusted dose (cPAD)). Since the 2016 dietary risk assessment does not take into account the tolerance reductions for potato, processed potato waste (from 1.0 ppm to 0.2 ppm) and vegetable, tuberous and corm, subgroup 1C (from 0.3 ppm to 0.09 ppm) and estimates a higher drinking water concentration (24.14 ppb to 103 ppb), EPA expects the actual chronic dietary exposure estimates to be lower than 14%. The Agency has not made any new findings concerning cumulative exposure, nor has it identified any residual uncertainties to warrant changes to the Agency's August 6, 2014 FQPA safety factor determination. EPA concludes that reliable data continue to show that the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X based on the same findings found in the August 6, 2014 rule and supporting documents. Therefore, relying upon the findings made in the August 6, 2014, **Federal Register** document and the 2016 dietary risk assessment, EPA concludes that there is a reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to fluopicolide residues.

For a detailed discussion of the aggregate risk assessments and determination of safety for these tolerances, please refer to the August 6, 2014, **Federal Register** document and its supporting documents, available at *http://www.regulations.gov* in docket ID number EPA–HQ–OPP–2014–0225, as well as document titled "Fluopicolide. Section 18 Registration for Application of Fluopicolide to Hops Grown in Michigan. Dietary Risk Assessment." dated March 24, 2016, in docket ID number EPA–HQ–OPP–2015–0791.

However, since the August 6, 2014 action relied on a 2008 action for BAM, the EPA has updated the BAM assessment to revisit the percent crop treated (PCT) and account for updated food consumption data. EPA's assessment of exposures and risks associated with BAM follows.

B. BAM

1. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The toxicity profile for BAM has not changed since the 2008 assessment EPA conducted for BAM. Specific information on the studies received and the nature of the adverse effects caused by BAM as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found in "2,6-Dichlorobenzamide (BAM). 2,6-Dichlorobenzamide (BAM) as a Metabolite/Degradate of Fluopicolide and Dichlobenil. Human Health Risk Assessment for Proposed Uses of Rhubarb, Dichlobenil on Caneberries (Subgroup 13–07A), and Bushberries (Subgroup 13–07B)." dated June 19, 2008, in docket ID number EPA–HQ–OPP–2007–0604.

2. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides.*

A summary of the toxicological endpoints for BAM used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of April 20, 2011 (76 FR 22045) (FRL–8859–9).

3. Exposure Assessment

a. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to BAM, EPA considered exposure of BAM from petitioned-for tolerances discussed in this document, as well as all existing uses for both fluopicolide and dichlobenil. EPA assessed dietary exposures from BAM in food as follows:

i. Acute exposure. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring from a 1-day or single exposure.

Such effects were identified for BAM. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). This dietary survey was conducted from 2003 to 2008. EPA conducted a partially refined acute dietary exposure assessment for the metabolite BAM. As to residue levels in food, EPA assumed maximum BAM residue from either the fluopicolide or dichlobenil field trial data. Further, 100 PCT for all commodities was assumed except apples, blueberries, cherries, peaches, pears, and raspberries where EPA relied on PCT estimates based on use of dichlobenil on these commodities; fluopicolide is not registered for use on these commodities. DEEM default processing-factors were used for commodities where empirical processing data were not available.

ii. Chronic exposure. In conducting the chronic dietary exposure assessment, EPA used food consumption information from the USDA NHANES/WWEIA 2003 to 2008 dietary survey. As to residue levels in food, EPA assumed maximum BAM residue from either fluopicolide or dichlobenil field trials and, further, the chronic assessment used 100 PCT for all commodities except apples. DEEM default processing-factors were used for commodities where empirical processing data were not available.

iii. Cancer. EPA determines whether quantitative cancer exposure and risk assessments are appropriate for a food-use pesticide based on the weight of the evidence from cancer studies and other relevant data. Cancer risk is quantified using a linear or nonlinear approach. If sufficient information on the carcinogenic mode of action is available, a threshold or nonlinear approach is used and a cancer RfD is calculated based on an earlier noncancer key event. If carcinogenic mode of action data are not available, or if the mode of action data determines a mutagenic mode of action, a default linear cancer slope-factor approach is utilized. EPA has concluded that a nonlinear RfD approach is appropriate for assessing cancer risk to BAM.

The carcinogenic potential of BAM has been evaluated in only one species, the rat. That study showed an increased incidence of hepatocellular adenomas in high-dose females that was marginally statistically significant. To be conservative, EPA has assumed that BAM's potential for carcinogenicity is similar to the parent having the greatest carcinogenic potential. Fluopicolide has been classified as not likely to be carcinogenic to humans; EPA classified dichlobenil as a Group C, possible human carcinogen, but determined that the chronic dietary risk assessment based on the cPAD would be protective of any potential cancer effects. EPA has assumed that BAM's carcinogenic potential is similar to that of dichlobenil, the parent compound having the greatest carcinogenicity potential. As with dichlobenil, the chronic dietary risk assessment based on the cPAD is expected to protect for any potential cancer effects. Cancer risk was assessed using the same exposure estimates as discussed in Unit III.B.3.a.ii.

For additional information, refer to the summary of the toxicological endpoints for BAM used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of April 20, 2011 (76 FR 22045) (FRL–8859–9).

iv. Anticipated residue and percent crop treated (PCT) information. For the BAM dietary assessment, EPA used available anticipated residue levels and PCT information on apples, blueberries, cherries, peaches, pears, and raspberries where EPA relied on PCT estimates based on use of dichlobenil; fluopicolide is not registered for use on these commodities. Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

- Condition a: The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain the pesticide residue.
- Condition b: The exposure estimate does not underestimate exposure for any significant subpopulation group.
- Condition c: Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area.

In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by FFDCA section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

In the acute dietary assessment for BAM, the Agency estimated the PCT from the existing dichlobenil uses as follows: Apple, 2.5%; blueberry, 2.5%; raspberry, 20%; cherry, 2.5%; peach, 2.5%; pear, 5%. In the chronic dietary assessment for BAM, the Agency estimated the PCT from the existing dichlobenil uses as follows: Apple, 1%.

In most cases, EPA uses available data from United States Department of Agriculture/National Agricultural Statistics Service (USDA/NASS), proprietary market surveys, and the National Pesticide Use Database for the chemical/crop combination for the most recent 6 to 7 years. EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available public and private market survey data for that use, averaging across all observations, and rounding to the nearest 5%, except for those situations in which the average PCT is less than one. In those cases, 1% is used as the average PCT and 2.5% is used as the maximum PCT. EPA uses a maximum PCT for acute dietary risk analysis. The maximum PCT figure is the highest observed maximum value reported within the recent 6 years of available public and private market survey data for the existing use and rounded up to the nearest multiple of 5%.

The Agency believes that the three conditions discussed in Unit III.B.3.a.iv. have been met. With respect to Condition a, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions b and c, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available reliable information on the regional consumption of food to which fluopicolide or dichlobenil may be applied in a particular area.

b. *Dietary exposure from drinking water.* The Agency used screening-level water exposure models in the dietary exposure analysis and risk assessment for BAM in drinking water. The Agency used estimates of BAM resulting from the application of dichlobenil, as they were higher than those resulting from the application of fluopicolide. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of BAM. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking water concentrations (EDWCs) of BAM resulting from application of dichlobenil for acute exposures are estimated to be 25.5 parts per billion (ppb) for surface water and 67.4 ppb for ground water. The EDWCs of BAM resulting from application of dichlobenil for chronic exposures for non-cancer assessments are estimated to be 10.5 ppb for surface water and 67.4 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute and chronic dietary risk assessment, the water concentration of value 67.4 ppb was used to assess the contribution to drinking water.

c. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Fluopicolide is currently registered for the following uses that could result in residential exposures: Residential turf grass, recreational sites, and ornamental plants and trees. EPA assessed residential exposure to BAM from fluopicolide uses using the following assumptions: Residential handlers may receive short-term dermal and inhalation exposure to BAM when mixing, loading, and applying the fluopicolide formulations. Residential post-application exposure via the dermal route is likely for adults and children entering treated lawns or treated gardens and during mowing and golfing activities. Children may experience exposure via incidental non-dietary ingestion (*i.e.,* hand-to-mouth, object-to-mouth, and soil ingestion) during post-application activities on treated turf.

Residential handler exposure to BAM resulting from the application of dichlobenil is not expected. While dichlobenil is currently registered for residential uses on ornamental plants, they are approved for professional applicator use only. Post-application exposure of adults and children to dichlobenil and BAM exposure from the use of dichlobenil products on ornamental plants is expected to be negligible and, therefore, was not assessed.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/standard-operating-procedures-residential-pesticide.*

d. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to fluopicolide and any other substances. Fluopicolide shares a common metabolite, BAM, with dichlobenil. Quantification of risks for residues of BAM resulting from fluopicolide and dichlobenil was completed as part of this assessment; aggregate risks from BAM are not of concern. For the purposes of this tolerance action, EPA has not assumed that fluopicolide has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides*

4. Safety Factor for Infants and Children

a. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

b. *Prenatal and postnatal sensitivity.* For BAM, there is no evidence of quantitative susceptibility following in utero and/or postnatal exposure in the rabbit developmental toxicity study or in the 3-generation rat reproduction study. Qualitative susceptibility was not observed in the 3-generation reproduction study. Qualitative susceptibility was observed in the rabbit developmental toxicity study. Fetal effects (skeletal and visceral anomalies) and late-term abortions were observed. There is low concern for this qualitative susceptibility, because the fetal effects and late-term abortions have been well characterized and occurred at dose levels where significant maternal toxicity (severe body-weight gain decrements and decreased food consumption) was observed. Protection of the maternal effects also protects for any effects that may occur during development. There are not residual uncertainties concerning prenatal and postnatal toxicity for BAM.

c. *Conclusion.* EPA has retained the 10X FQPA SF for BAM for those exposure scenarios that do not rely on dichlobenil toxicity data. These scenarios are acute dietary for the general population (including infants and children) and females 13–49 years of age, chronic dietary, and incidental oral non-dietary. Although EPA has developmental, reproduction, and subchronic and chronic toxicity studies for the metabolite BAM, and a structure activity analysis indicates EPA has identified its principal toxicological effects and level of toxicity, EPA is retaining the FQPA 10X SF due to remaining questions regarding the systemic neurotoxic potential of BAM (olfactory neurotoxicity) via the oral route of exposure and the use of a LOAEL in assessing acute dietary risk for the general population. For the dermal and inhalation routes of exposures, for which the Agency is relying on dichlobenil toxicity data, EPA has reduced the FQPA SF for BAM to 1X, based on a comparison of toxicity via the intraperitoneal route of exposure showing that higher doses of BAM are needed to induce levels of olfactory toxicity that are similar to those caused by dichlobenil. Olfactory toxicity, the most sensitive endpoint, was the endpoint chosen for these exposure scenarios. Other factors EPA considered in the FQPA SF decisions for BAM include the following:

i. To compensate for deficiencies in the toxicology database for BAM, EPA performed a comparative analysis of the toxicity of BAM and the parent compounds, dichlobenil and fluopicolide, using the available animal data and DEREK analysis (Deductive Estimation of Risk from Existing Knowledge). DEREK is a toxicology application that uses structure-activity relationships to predict a broad range of toxicological properties based on a comprehensive analysis of a compound's molecular structure. Based on the available animal data and DEREK analyses, BAM does not appear to cause different organ-specific toxicities compared to fluopicolide and dichlobenil. The kidney and liver toxicities are common to all three compounds. With respect to relative toxicity, conclusions from the evaluation of the animal studies appear to confirm that both fluopicolide and dichlobenil appear to be more or equally toxic compared to BAM. A full discussion of EPA's comparative toxicity analysis of BAM, dichlobenil and fluopicolide can be found at *http://www.regulations.gov* in the document Comparative Toxicity Using Derek Analysis for Dichlobenil, Fluopicolide and BAM in docket ID number EPA–HQ–OPP–2007–0604. Based on the results of the available animal data and the DEREK analysis, EPA concludes that the safety factors discussed in the previous paragraph are adequate.

ii. For BAM, there is no evidence of quantitative susceptibility following in utero and/or postnatal exposure in the rabbit developmental toxicity study or in the 3-generation rat reproduction study. Qualitative susceptibility was not observed in the 3-generation reproduction study however, qualitative susceptibility was observed in the rabbit developmental toxicity study. Yet the concern for this qualitative susceptibility is low because the fetal effects and late-term abortions have been well characterized and occurred at dose levels where significant maternal toxicity (severe body-weight gain decrements and decreased food consumption) was observed. Protection of the maternal effects also protects for any effects that may occur during development.

iii. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were refined using reliable PCT information and anticipated residue values calculated from residue field trial results. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to BAM in drinking water. EPA used similarly conservative assumptions to assess postapplication exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by BAM.

5. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

a. Acute risk. An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to BAM will occupy 26% of the aPAD for females 13 to 49 years old, the population group receiving the greatest exposure.

b. Chronic risk. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to BAM from food and water will utilize 95% of the cPAD for all Infants (<1 year old), the population group receiving the greatest exposure. Based on the explanation in Unit III.B.3.c., regarding residential use patterns, chronic residential exposure to residues of BAM is not expected.

c. Short-term risk. Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered a background exposure level). Fluopicolide, is currently registered for uses that could result in short-term residential exposure to BAM, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to BAM associated with the application of fluopicolide. As noted in Unit III.B.3.c above, EPA does not expect there to be residential exposures to BAM from use of dichlobenil. Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 3200 for All Infants (<1 year old) and 5,400 for children 1 to 2 years old. Because EPA's level of concern for BAM is a MOE of 1,000 or below, these MOEs are not of concern.

d. Intermediate-term risk. Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered a background exposure level). An intermediate-term adverse effect was identified; however, fluopicolide is not registered for any use patterns that would result in intermediate-term residential exposure. Further, fluopicolide and dichlobenil are not registered for any use patterns that would result in intermediate-term residential exposure to BAM. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for fluopicolide and its metabolite, BAM.

e. Aggregate cancer risk for U.S. population. The Agency considers the chronic aggregate risk assessment, making use of the cPAD, to be protective of any aggregate cancer risk. See Unit III.B.5.b, *Chronic risk,* above.

f. Determination of safety. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to residues of fluopicolide and its metabolite, BAM.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (liquid chromatography/tandem mass spectrometry (LC/MS/MS)) is available to enforce the tolerance expression.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that

EPA explain the reasons for departing from the Codex level. The Codex has not established an MRL for fluopicolide on the subject commodities.

C. Response to Comments

EPA received one comment to the Notice of Filing that stated, in part, that the citizenry of this country do not want to eat any food items that have been polluted by these toxic chemicals and to deny this exemption. The Agency understands the commenter's concerns and recognizes that some individuals believe that pesticides should be banned on agricultural crops. However, the existing legal framework provided by section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA) states that tolerances may be set when persons seeking such tolerances or exemptions have demonstrated that the pesticide meets the safety standard imposed by that statute. This citizen's comment appears to be directed at the underlying statute and not EPA's implementation of it; the citizen has made no contention that EPA has acted in violation of the statutory framework.

D. Revisions to Petitioned-For Tolerances

EPA revised the tolerance levels based on analysis of the residue field trial data using the Organization for Economic Cooperation and Development (OECD) tolerance calculation procedures. Based on evaluation of the residue data and use of the OECD calculation procedures, the Agency modified the tolerance for the vegetable, tuberous and corm, subgroup 1C from the requested level of 0.10 ppm to 0.09 ppm. The Agency also modified the tolerance for potato, processed potato waste from the requested tolerance level of 0.25 ppm to 0.2 ppm (0.075 ppm maximum residue × 2.4 processing factor for wet peel). The EPA did not establish the requested tolerance for potato, chips because the tolerance for vegetable, tuberous and corm, subgroup 1C (0.09 ppm) will cover residues in or on potato chips (0.068 ppm estimated residue).

E. International Trade Considerations

In this rulemaking, EPA is reducing the tolerances for vegetable, tuberous and corm, subgroup 1C from 0.3 ppm to 0.09 ppm and potato, processed potato waste from 1.0 ppm to 0.2 ppm. The petitioner requested these reductions in order to harmonize tolerances with field trial data after the tolerances were increased in 2014 to support an early season soil application to potato, which has since then been restricted. The reduction is appropriate based on available data and residue levels resulting from registered use patterns.

In accordance with the World Trade Organization's (WTO) Sanitary and Phytosanitary Measures Agreement, EPA notified the WTO of the request to revise these tolerances on July 19, 2016 as WTO notification G/SPS/N/USA/2861. In this action, EPA is allowing the existing higher tolerances to remain in effect for 6 months following the publication of this rule in order to allow a reasonable interval for producers in the exporting countries to adapt to the requirements of these modified tolerances. On March 27, 2017, those existing higher tolerances will expire, and the new reduced tolerances for vegetable, tuberous and corm, subgroup 1C and potato, processed potato waste will remain to cover residues of fluopicolide on those commodities. Before that date, residues of fluopicolide on those commodities would be permitted up to the higher tolerance levels; after that date, residues of fluopicolide on vegetable, tuberous and corm, subgroup 1C and potato, processed potato waste will need to comply with the new lower tolerance levels. This reduction in tolerance is not discriminatory; the same food safety standard contained in the FFDCA applies equally to domestically produced and imported foods.

V. Conclusion

Therefore, tolerances are established for residues of fluopicolide, 2,6-dichloro-N-[3-chloro-5-(trifluoromethyl)-2-pyridylmethyl]-benzamide, in or on vegetable, tuberous and corm, subgroup 1C at 0.09 ppm, potato, processed waste at 0.2 ppm, and potato, granules/flakes at 0.15 ppm. The Agency is adding an expiration date of March 27, 2017 to the existing tolerances for vegetable, tuberous and corm, subgroup 1C at 0.3 ppm and potato, processed potato waste at 1.0 ppm. Residues of fluopicolide will be covered by these higher tolerances until the expiration date, after which time, they will need to comply with the lower tolerances being established today. Lastly, this regulation establishes a time-limited tolerance for residues of fluopicolide in or on hop, dried cone at 30 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled "Regulatory Planning, and Review" (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 13, 2016.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.627:

■ a. In the table in paragraph (a), add alphabetically entries for "Potato, granules/flakes" and "Potato, processed potato waste," revise the existing entry for "Potato, processed potato waste," and add an entry for "Vegetable, tuberous and corm, subgroup 1C"; and

■ b. Revise paragraph (b).

The additions and revisions read as follows:

§ 180.627 Fluopicolide; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * *	* *
Potato, granules/flakes	0.15
Potato, processed potato waste	0.2
Potato, processed potato waste.[1]	1.0
* * *	* *
Vegetable, tuberous and corm, subgroup 1C	0.09
Vegetable, tuberous and corm, subgroup 1C [1]	0.3

[1] This tolerance expires on March 27, 2017.

(b) *Section 18 emergency exemptions.* Time-limited tolerances specified in the following table are established for residues of the fluopicolide, including its metabolites and degradates, in or on the specified agricultural commodities, resulting from use of the pesticide pursuant to FIFRA section 18 emergency exemptions. Compliance with the tolerance levels specified below is to be determined by measuring only fluopicolide [2,6-dichloro-N-[[3-chloro-5-(trifluoromethyl)-2-pyridinyl]methyl]benzamide] in or on the commodity. The tolerances expire on the date specified in the table.

Commodity	Parts per million	Expiration date
Hop, dried cones	30	December 31, 2019.

* * * * *

[FR Doc. 2016–23184 Filed 9–23–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 711

[EPA–HQ–OPPT–2009–0187; FRL–9952–64]

RIN 2070–AJ43

Chemical Data Reporting; 2016 Submission Period Extension

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending the Toxic Substances Control Act (TSCA) Chemical Data Reporting (CDR) regulations by extending the submission deadline for 2016 reports from September 30, 2016 to October 31, 2016. This is a one-time extension for the 2016 submission period only. The CDR regulations require manufacturers (including importers) of certain chemical substances included on the TSCA Chemical Substance Inventory (TSCA Inventory) to report current data on the manufacturing, processing, and use of the chemical substances.

DATES: This final rule is effective September 26, 2016.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2009–0187, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Susan Sharkey, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8789; email address: *Sharkey.susan@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

You may be potentially affected by this action if you manufacture (including import and manufacture as a byproduct) chemical substances listed on the TSCA Inventory. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include but are not limited to:

- Chemical manufacturers (including importers) (NAICS codes 325 and 324110, *e.g.*, chemical manufacturing and processing and petroleum refineries).
- Chemical users and processors who may manufacture a byproduct chemical substance (NAICS codes 22, 322, 331, and 3344, *e.g.*, utilities, paper manufacturing, primary metal manufacturing, and semiconductor and other electronic component manufacturing).

II. Background

A. What action is the Agency taking?

The 2016 CDR submission period is from June 1 to September 30, 2016 (40 CFR 711.20). EPA is issuing this amendment to extend the deadline for 2016 CDR submission reports until October 31, 2016. This is a one-time extension: Subsequent submission periods (recurring every four years, next in 2020) are not being amended.

The Agency is taking this action in response to concerns raised by the regulated community about their ability to submit the required information within the prescribed period. The written request to extend the CDR submission period is included in the docket (see **ADDRESSES**). The compelling concerns raised by industry include delays in reporting as a result of issues associated with several aspects of electronic reporting. EPA believes it is appropriate to extend the reporting period to allow the regulated community additional time to submit their reports. With respect to the timing of this action, the need for the Agency to extend the deadline arose, in part, as a result of issues experienced by the regulated community with several aspects of electronic reporting that were brought to the Agency's attention only recently. Specifically, these issues include difficulties with inexact entries when using XML Schema and the length of time for data validation.

B. What is the Agency's authority for taking this action?

The CDR rule was issued pursuant to the authority of TSCA section 8(a), 15 U.S.C. 2607(a). Under section 553(b)(3)(B) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B), the Agency may issue a final rule without a prior proposal if it finds that notice and public participatory procedures are impracticable, unnecessary, or contrary to the public interest. In this case, for the extension sought, the Agency does find that normal notice and public process rulemaking is impracticable. Given that the current reporting deadline is September 30, 2016, it is impracticable to follow notice and comment procedures on an extension of that deadline, because that process would not allow the rule to be finalized before the current reporting deadline. The Agency only recently learned that the regulated community was having difficulty related to the required electronic reporting mechanism. Individual entities provided information about technical issues and reporting difficulties, but the collective significance of these issues was not apparent until the Agency completed review of a letter from the American Chemistry Council dated August 30, 2016 (Ref. 1).

This action does not alter the substantive CDR reporting requirements in any way. The Agency also believes the one-time extension will not result in a significant delay in the processing and availability of CDR information to potential users. Further, this action is consistent with the public interest because it is designed to facilitate compliance with the CDR rule and to ensure that the 2016 collection includes accurate data on chemical manufacturing, processing, and use in the United States. Finally, any impact on the regulated community is expected to be beneficial given that the one-time extension provides additional time to submit accurate CDR reports to EPA.

Similarly, under APA section 553(d), 5 U.S.C. 553(d), the Agency may make a rule immediately effective "for good cause found and published with the rule." For the reasons discussed in this unit, EPA believes that there is "good cause" to make this amendment effective upon publication in the **Federal Register**.

III. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. American Chemistry Council. "Request for an Extension to the TSCA Chemical Data Reporting (CDR) 2016 Submission Period [Letter]." August 30, 2016.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866 and Executive Order 13563

This action is classified as a final rule because it makes an amendment to the Code of Federal Regulations (CFR). The amendment to the CFR is necessary to allow for a one-time extension to the 2016 CDR reporting period. This action does not impose any new requirements or amend substantive requirements. This action is not a "significant regulatory action" under Executive Order 12866, entitled "Regulatory Planning and Review" (58 FR 51735, October 4, 1993) and Executive Order 13563 entitled "Improving Regulation and Regulatory Review" (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act (PRA)

This final rule does not contain any new or revised information collections subject to OMB approval under the PRA, 44 U.S.C. 3501 *et seq.*

C. Regulatory Flexibility Act (RFA)

This final rule is not subject to the RFA, 5 U.S.C. 601 *et seq.* The RFA applies only to rules subject to notice and comment rulemaking requirements under the APA, 5 U.S.C. 553, or any other statute. This rule is not subject to notice and comment requirements under the APA because the Agency has invoked the APA "good cause" exemption.

D. Unfunded Mandates Reform Act (UMRA) and Executive Orders 13132 and 13175

This action will not have substantial direct effects on State or tribal governments, on the relationship between the Federal Government and States or Indian tribes, or on the distribution of power and responsibilities between the Federal Government and States or Indian tribes. As a result, no action is required under Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), or under Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). Nor does it impose any enforceable duty or contain any unfunded mandate as described under Title II of UMRA, 2 U.S.C. 1531–1538.

E. Executive Orders 13045, 13211, and 12898

This action is not a "significant regulatory action" as defined by Executive Order 12866. As a result, this action is not subject to Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) and Executive Order 13211 entitled "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). In addition, this action also does not require any special considerations under Executive Order 12898 entitled "Federal Actions to Address Environmental Justice in

Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

F. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the NTTAA, 15 U.S.C. 272 note.

V. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.*, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 711

Environmental protection, Chemicals, Confidential Business Information (CBI), Hazardous materials, Importer, Manufacturer, Reporting and recordkeeping requirements.

Dated: September 16, 2016.

Jim Jones,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

Therefore, 40 CFR chapter I is amended as follows:

PART 711—[AMENDED]

■ 1. The authority citation for part 711 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

■ 2. In § 711.20, revise the second and third sentences to read as follows.

§ 711.20 When to report.

* * * The 2016 CDR submission period is from June 1, 2016 to October 31, 2016. Subsequent recurring submission periods are from June 1 to September 30 at 4-year intervals, beginning in 2020.* * *

[FR Doc. 2016–22974 Filed 9–23–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket No. 16–166; FCC 16–121]

Assessment and Collection of Regulatory Fees for Fiscal Year 2016

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Commission revises its Schedule of Regulatory Fees to recover an amount of $384,012,497 that Congress has required the Commission to collect for fiscal year 2016. Section 9 of the Communications Act of 1934, as amended, provides for the annual assessment and collection of regulatory fees for annual ''Mandatory Adjustments'' and ''Permitted Amendments'' to the Schedule of Regulatory Fees.

DATES: Effective September 26, 2016. To avoid penalties and interest, regulatory fees should be paid by the due date of September 27, 2016.

FOR FURTHER INFORMATION CONTACT: Roland Helvajian, Office of Managing Director at (202) 418–0444.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (R&O), FCC 16–121, MD Docket No. 16–166, adopted on September 1, 2016 and released on September 2, 2016.

I. Administrative Matters

A. Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980 (RFA),[1] the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) relating to this Report and Order. The FRFA is located towards the end of this document.

B. Final Paperwork Reduction Act of 1995 Analysis

2. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

C. Congressional Review Act

3. The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

II. Introduction

4. This *Report and Order* adopts a schedule of regulatory fees to assess and collect $384,012,497.00 in regulatory fees for Fiscal Year (FY) 2016, pursuant to Section 9 of the Communications Act of 1934, as amended (Communications Act or Act) and the Commission's FY 2016 Appropriation.[2] The schedule of regulatory fees for FY 2016 adopted here is attached in Table 4. These regulatory fees are due on September 27, 2016. The FY 2016 regulatory fees are based on the proposals in the *FY 2016 NPRM,*[3] considered in light of the comments received and Commission analysis. The FY 2016 regulatory fee schedule includes the following changes from last year: (1) An increase in regulatory fees across all fee categories to offset the Commission's facilities reduction costs;[4] (2) an updated regulatory fee for Direct Broadcast Satellite (DBS) providers, a subcategory in the cable television and Internet Protocol Television (IPTV) category; and (3) adjustments to the regulatory fees on radio and television broadcasters, based on type and class of service and on the population served.

III. Background

5. Congress adopted a regulatory fee schedule in 1993[5] and authorized the Commission to assess and collect annual regulatory fees pursuant to the schedule, as amended by the Commission.[6] As a result, the Commission annually reviews the regulatory fee schedule, proposes changes to the schedule to reflect changes in the amount of its appropriation, and proposes increases or decreases to the schedule of regulatory fees.[7] The Commission makes changes to the regulatory fee schedule ''if the Commission determines that the schedule requires amendment to comply with the requirements''[8] of section 9(b)(1)(A) of the Act.[9] The Commission may also add, delete, or reclassify services in the fee schedule to reflect additions, deletions, or changes in the nature of its services ''as a consequence of Commission rulemaking proceedings or changes in law.'' Thus,

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[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 847 (1996). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

[2] 47 U.S.C. 159. Consolidated Appropriations Act, 2016, Public Law 114–113, Dec. 18, 2015.

[3] *Assessment and Collection of Regulatory Fees for Fiscal Year 2016,* Notice of Proposed Rulemaking, 81 FR 35680 (June 3, 2016) (2016) (*FY 2016 NPRM*).

[4] The proposed regulatory fee rates for FY 2016 includes a one-time amount of $44,168,497 to offset facilities reduction costs, *i.e.,* to reduce the office space footprint and/or move the FCC office location if necessary. Consolidated Appropriations Act, 2016, Public Law 114–113, Dec. 18, 2015. *See* FCC's Lease Prospectus, *available at http://www.gsa.gov/portal/category/100435.*

[5] 47 U.S.C. 159(g) (showing original fee schedule prior to Commission amendment).

[6] 47 U.S.C. 159.

[7] 47 U.S.C. 159(b)(1)(B).

[8] 47 U.S.C. 159(b)(2).

[9] 47 U.S.C. 159(b)(1)(A).

for each fiscal year, the Commission proposes a fee schedule in the annual Notice of Proposed Rulemaking that reflects changes in the amount appropriated for the performance of the Commission's regulatory activities, changes in the industries represented by the regulatory fee payors, changes in FTE [10] levels, and any other issues of relevance to the proposed fee schedule.[11] After reviewing the comments, the Commission issues a Report and Order adopting the fee schedule for the fiscal year and sets out the procedures for payment of fees.

6. The Commission calculates the fees by first determining the number of FTEs performing the regulatory activities specified in section 9(a), "adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities. . . ." [12] FTEs are categorized as "direct" if they are performing regulatory activities in one of the "core" bureaus, *i.e.,* the Wireless Telecommunications Bureau, Media Bureau, Wireline Competition Bureau, and part of the International Bureau. All other FTEs are considered "indirect." [13] The total FTEs for each fee category is calculated by counting the number of direct FTEs in the core bureau that regulates that category, plus a proportional allocation of indirect FTEs. Next, the Commission allocates the total amount to be collected among the various regulatory fee categories. This allocation is based on the number of FTEs assigned to work in each regulatory fee category. Each regulatee within a fee category pays its proportionate share based on an objective measure, *e.g.,* revenues, number of subscribers, or licenses.[14]

7. As part of its annual review, the Commission regularly seeks to improve its regulatory fee analysis.[15] For example, in FY 2013, the Commission updated FTE allocations to more accurately reflect the number of FTEs working on regulation and oversight of the regulatees in the various fee categories, and now updates the FTE allocations annually; [16] combined the UHF and VHF television stations into one regulatory fee category; [17] and included IPTV in the cable television fee category.[18] In FY 2014, we adopted a new fee category for toll free numbers, in the ITSP fee category; [19] increased the de minimis threshold; [20] and eliminated several categories from the regulatory fee schedule.[21] In FY 2015, we added a subcategory for DBS providers in the cable television and IPTV regulatory fee category.[22]

8. In our *FY 2016 NPRM,* we proposed to collect $384,012,497.00 in regulatory fees and included a detailed, proposed fee schedule. We received 17 comments and 10 reply comments.[23]

IV. Discussion

9. In this *FY 2016 Report and Order,* we adopt a regulatory fee schedule for FY 2016, pursuant to section 9 of the Communications Act and our FY 2016 appropriation statute in order to collect $384,012,497.00 in regulatory fees.[24] Of this amount, we project approximately $21.3 million (5.6 percent of the total FTE allocation) in fees from the International Bureau regulatees; [25] $83.1 million (21.6 percent of the total FTE allocation) in fees from the Wireless Telecommunications Bureau regulatees; [26] $146.5 million (38.0 percent of the total FTE allocation) from Wireline Competition Bureau regulatees; [27] and $134.0 million (34.8 percent of the total FTE allocation) from the Media Bureau regulatees.[28] These regulatory fees are due on September 27, 2016. The schedule of regulatory fees for FY 2016 adopted here is attached as Table 4.

1. Facilities Reduction

10. The regulatory fee rates for FY 2016 include $339,844,000 for operational expenses and an additional one time amount of $44,168,497 to offset facilities reduction costs, *i.e.,* to reduce the FCC's office space footprint and/or move the FCC office location.[29] Due to the facilities reduction costs, regulatees' aggregate fees by category increased on average by approximately 11–13 percent for 2016. Some commenters disagree with this approach.[30] We are, however, required by Congress to collect this amount for FY 2016.[31]

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[10] One FTE, a "Full Time Equivalent" or "Full Time Employee," is a unit of measure equal to the work performed annually by a full time person (working a 40 hour workweek for a full year) assigned to the particular job, and subject to agency personnel staffing limitations established by the U.S. Office of Management and Budget.

[11] Section 9(b)(2) discusses mandatory amendments to the fee schedule and Section 9(b)(3) discusses permissive amendments to the fee schedule. Both mandatory and permissive amendments are not subject to judicial review. 47 U.S.C. 159(b)(2) and (3).

[12] 47 U.S.C. 159(b)(1)(A). When section 9 was adopted, the total FTEs were to be calculated based on the number of FTEs in the Private Radio Bureau, Mass Media Bureau, and Common Carrier Bureau. (The names of these bureaus were subsequently changed.) Satellites, earth stations, and international bearer circuits were regulated through the Common Carrier Bureau before the International Bureau was created.

[13] The indirect FTEs are the employees from the International Bureau (in part), Enforcement Bureau, Consumer & Governmental Affairs Bureau, Public Safety & Homeland Security Bureau, Chairman and Commissioners' offices, Office of the Managing Director, Office of General Counsel, Office of the Inspector General, Office of Communications Business Opportunities, Office of Engineering and Technology, Office of Legislative Affairs, Office of Strategic Planning and Policy Analysis, Office of Workplace Diversity, Office of Media Relations, and Office of Administrative Law Judges, totaling 1,046 indirect FTEs.

[14] *See Assessment and Collection of Regulatory Fees,* Notice of Proposed Rulemaking, 27 FCC Rcd 8458, 8461–62, paragraphs 8–11 (2012) (*FY 2012 NPRM*).

[15] *See Assessment and Collection of Regulatory Fees for Fiscal Year 2008,* MD Docket No. 08–65, Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6388 (2008) (*FY 2008 Further Notice*).

[16] *Assessment and Collection of Regulatory Fees for Fiscal Year 2013,* MD Docket No. 08–65, Report and Order, 28 FCC Rcd 12351, 12354–58, paragraphs 10–20 (2013) (*FY 2013 Report and Order*).

[17] *FY 2013 Report and Order,* 28 FCC Rcd at 12361–62, paragraphs 29–31.

[18] *Id.,* 28 FCC Rcd at 12362–63, paragraphs 32–33.

[19] *Assessment and Collection of Regulatory Fees for Fiscal Year 2014,* Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 10767, 10777–79, paras. 25–28 (2014) (*FY 2014 Report and Order*).

[20] *FY 2014 Report and Order,* 29 FCC Rcd at 10774–76, paragraphs 18–21.

[21] *Id.,* 29 FCC Rcd at 10776–77, paragraphs 22–24.

[22] *Assessment and Collection of Regulatory Fees for Fiscal Year 2015,* Notice of Proposed Rulemaking, Report and Order, and Order, 30 FCC Rcd 5354, 5364–5373, paragraphs 28–41 (2015) (*FY 2015 NPRM*). We also eliminated two additional fee categories. *See FY 2015 NPRM,* 30 FCC Rcd at 5361–62, paragraphs 19–22.

[23] Commenters to the *FY 2016 NPRM* are listed in Table 2.

[24] Section 9 regulatory fees are mandated by Congress and collected to recover the regulatory costs associated with the Commission's enforcement, policy and rulemaking, user information, and international activities. 47 U.S.C. 159(a). *See* Consolidated Appropriations Act, 2016, Public Law 114–113, Dec. 18, 2015, requiring the Commission to collect, for FY 2016, $339,844,000 for operational expenses and an additional one time amount of $44,168,497 to offset facilities reduction costs.

[25] Includes satellites, earth stations, and international bearer circuits (submarine cable systems and satellite and terrestrial bearer circuits).

[26] Includes Commercial Mobile Radio Service (CMRS), CMRS messaging, Broadband Radio Service/Local Multipoint Distribution Service (BRS/LMDS), and multi-year wireless licensees.

[27] Includes Interstate Telecommunications Service Providers (ITSP) and toll free numbers.

[28] Includes AM radio, FM radio, television (including low power and Class A, TV/FM translators and boosters, cable and IPTV, DBS, and Cable Television Relay Service (CARS) licenses.

[29] Consolidated Appropriations Act, 2016, Public Law 114–113, Dec. 18, 2015. *See* FCC's Lease Prospectus, *available at http://www.gsa.gov/portal/category/100435.*

[30] *See, e.g.,* PMCM TV Comments at 2 ("Congress has never given the Commission a carte blanche to recover *all* of its costs through the regulatory fee mechanism."); AT&T Comments at 3 ("This sum is especially unsuitable for inclusion in the regulatory fee request.").

[31] Consolidated Appropriations Act, 2016, Public Law 114–113, Dec. 18, 2015.

2. Toll Free Numbers

11. In the *FY 2014 Report and Order,*[32] we adopted a regulatory fee category for each toll free number managed by a RespOrg.[33] In the *FY 2015 Report and Order,* we adopted a regulatory fee of 12 cents per toll free number.[34] We proposed a regulatory fee of 13 cents per toll free number in the *FY 2016 NPRM.*[35] AT&T objects to the increase from 12 cents to 13 cents per year, and contends that we have not demonstrated increased regulatory oversight of RespOrgs to justify this increase.[36] We identified in the *FY 2016 NPRM* that regulatory fees increased for all regulatee categories due to the one time increase for facilities reduction costs,[37] which includes a one cent fee increase for toll free numbers. Pursuant to our obligations under section 9 of the Act and related Commission orders, we therefore adopt the fee proposed in the *FY 2016 NPRM.*[38]

3. International Bureau Issues

a. International Bearer Circuits

12. Facilities-based common carriers must pay regulatory fees for terrestrial and satellite International Bearer Circuits (IBCs) active (used or leased) as of December 31 of the prior year in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier.[39] In addition, non-common carrier satellite operators must pay a fee for each circuit they and their affiliates hold and each circuit sold or leased to any customer, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services.[40] In the *FY 2016 NPRM,* and previously in *FY 2015 Report and Order,* we sought comment on how to ensure that all providers calculate and report IBCs in the same manner and how we could improve our requirements and regulatory treatment of terrestrial and satellite IBC.[41]

13. We also sought comment on whether to eliminate the distinction between common carrier terrestrial circuits and non-common carrier terrestrial circuits for regulatory fee purposes.[42] In doing so, we observed the telecommunications industry and Commission's rules have evolved. We also sought comment on the least burdensome methodology for calculating fees, whether international revenue rather than the number of circuits would be a useful data source, and asked how to ensure accurate reporting of both common carrier and non-common carrier terrestrial circuits.[43]

14. Only Level 3 commented, proposing that we revise our regulatory fee methodology for terrestrial international bearer circuits and adopt a flat-fee methodology similar to the method we use to assess fees for submarine cable systems.[44] This proposal would include common carrier and non–common carrier circuits.[45] Level 3 contends that this would be simpler to administer and would reduce underreporting.[46] We agree with Level 3 that there is need to evaluate the changes in the international services marketplace and update our fee methodology to reflect the changes and make it simpler and more efficient to administer. We find, however, that the record in this proceeding is insufficient to make any comprehensive changes to the fee methodology at this time.[47] To adequately evaluate the changes to the marketplace, a separate rulemaking proceeding to comprehensively review the methodology used for assessing fees for terrestrial and satellite international bearer circuits is needed, including the allocation of the international bearer circuit fee category between terrestrial and satellite circuits and submarine cable systems. Accordingly, we make no changes to fee rules governing the IBCs based on the record in this proceeding.

b. Earth Stations

15. In the *FY 2014 NPRM,* we recognized that the International Bureau's oversight and regulation of the satellite industry involves FTEs working on legal, technical, and policy issues pertaining to both space station and earth station operations and is therefore interdependent to some degree.[48] For that reason, in the FY 2014 regulatory fee proceeding, we increased the regulatory fees paid by earth station licensees by approximately 7.5 percent based on analysis and review of the record.[49] In the *FY 2015 NPRM,* we sought comment on whether to raise the earth station regulatory fees again.[50] However, we declined to adopt an increase in fees in FY 2015 due to an ongoing proceeding concerning part 25 (Satellite Communications) of the Commission's rules which could affect the distribution of FTE work. In the *FY 2016 NPRM,* we sought comment on this issue—specifically on EchoStar's proposal to assess different levels of regulatory fees on different types of earth station licenses.[51]

16. EchoStar now observes that since it submitted its proposal, we have adopted reforms that streamlined the

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[32] *FY 2014 Report and Order,* 29 FCC Rcd at 10777–79, paragraphs 25–28. We adopted this category for working, assigned, and reserved toll free numbers and for toll free numbers that are in the "transit" status, or any other status as defined in section 52.103 of the Commission's rules. The regulatory fee is limited to toll free numbers that are accessible within the United States.

[33] A Responsible Organization or RespOrg is a company that manages toll free telephone numbers for subscribers. RespOrgs use the SMS/800 database to verify the availability of specific numbers and to reserve the numbers for subscribers. *See* 47 CFR 52.101(b). Commission FTEs in the Wireline Competition Bureau and the Enforcement Bureau work on toll free numbering issues and other related activities. As a result, the Commission adopted a regulatory fee for each toll free number controlled or managed by a RespOrg because many toll free numbers are controlled or managed by RespOrgs that are not carriers, and therefore, had not been paying regulatory fees. In the *FY 2014 Report and Order,* we stated that: "Based on evaluation, the FTEs involved in toll free issues are primarily from the Wireline Competition Bureau. . . . Accordingly, a regulatory fee assessed on toll free numbers reduces the ITSP regulatory fee total." *FY 2014 Report and Order,* 29 FCC Rcd at 10778, paragraph 27 (footnote omitted).

[34] Assessment and Collection of Regulatory Fees for Fiscal Year 2015, Report and Order and Further Notice of Proposed Rulemaking, 30 FCC Rcd 10268, 10271–72, para. 9 (2015) (*FY 2015 Report and Order*).

[35] *FY 2016 NPRM,* 81 FR 35680 at 35689, Table 3.

[36] AT&T Comments at 4. Somos questions the increase and observes that the Commission's lease after the move (or facilities reduction) should decrease which should result in lower regulatory fees in the future. Somos Comments at 2–3.

[37] *FY 2016 NPRM,* 81 FR 35680, at 35683, note 20.

[38] *See supra* note 23.

[39] *See infra* paragraph 42.

[40] *Id.*

[41] *FY 2016 NPRM,* 81 FR 35680 at 35684, paragraphs 20–21.

[42] The Commission previously explored whether carriers should be assessed regulatory fees for their terrestrial non-common carrier circuits, but declined to do so at that time because of the "complexity of the legal, policy and equity issues involved." *Assessment and Collection of Regulatory Fees for Fiscal Year 2009,* Report and Order, 24 FCC Rcd 10301, 10306–307, paragraphs 16–17 (2009) (*FY 2009 Report and Order*). On March 17, 2009, the Commission adopted in the *Submarine Cable Order* a new submarine cable bearer circuit methodology that allocates IBC costs among service providers in an equitable and competitively neutral manner, without distinguishing between common carriers and non-common carriers, by assessing a flat per cable landing license fee for all submarine cable systems. *Assessment and Collection of Regulatory Fees for Fiscal Year 2008,* Second Report and Order, 24 FCC Rcd 4208, 4214–16, paragraphs 13–17 (2009) (*Submarine Cable Order*).

[43] *FY 2016 NPRM,* 81 FR at 35680, at 35685, paragraph 21.

[44] Level 3 Comments at 3 (citing *Submarine Cable Order*).

[45] *Id.* at 3, 5.

[46] *Id.* at 3–5. Level 3 explains that this proposal would reduce the burden on payors. *Id.* at 5.

[47] We received no comments in response to Level 3's proposed methodology.

[48] *FY 2014 NPRM,* 29 FCC Rcd at 6428, paragraph 29.

[49] *See FY 2014 Report and Order,* 29 FCC Rcd at 10772–73, paragraph 12.

[50] *FY 2015 NPRM,* 30 FCC Rcd at 5360, paragraph 14.

[51] *See* EchoStar July 20, 2015 Ex Parte.

reporting process for satellite earth stations, which has addressed an unequal reporting burden and reduced administrative burdens.[52] For this reason, EchoStar contends that all satellite earth stations should have the same regulatory fee, and no longer supports its earlier proposal.[53]

17. No parties commented in favor of the proposal. At this time, we see no basis to assess different levels of regulatory fees on different types of earth station licensees. Accordingly, we adopt the earth station fee proposed in the *FY 2016 NPRM*.

c. Submarine Cable

18. We did not specifically seek comment on issues pertaining to the submarine cable industry. The proposed rates in the *FY 2016 NPRM* contained a fee increase due to the one-time increase for facilities reduction expenses[54] and a change in submarine cable units. A group of submarine cable operators contends that the proposed rate is too high and not justified.[55] Specifically, the Submarine Cable Coalition questions the methodology for the proposed fees and argues that the proposed fees are disproportionate to the benefits received by submarine cable operators and the minimal regulatory oversight by the Commission, after the licensing process.[56] Further the Submarine Cable Coalition states that the Commission should not overcharge low-cost regulatees to subsidize for high-cost regulatees and recommends that the Commission reduce the regulatory fees commensurate with the amount of regulatory activity undertaken.[57] As we have previously stated, the regulatory fees paid by the submarine cable operators cover not just the services provided those entities, but also the services provided to the common carriers that use the submarine cables to provide service.[58] The regulatory fees are also not intended to recover only the costs of Title II regulation, but also the costs of our enforcement, policy and rulemaking, user information and international activities that benefit all entities involved in international telecommunications.[59] We also note that since release of the *FY 2016 NPRM,* the units used to calculate fees has been updated with more recent data. Accordingly, the fees listed in Table 3 are less than the amount proposed in the *FY 2016 NPRM.* Nevertheless, we remind all regulatees, including submarine cable operators, the FY 2016 regulatory fees include the facilities reduction costs.

4. FTE Reallocations

19. ITTA has proposed in past regulatory fee proceedings that wireless providers should be combined into the ITSP fee category so that all voice providers pay regulatory fees on the same basis.[60] ITTA continues to endorse this approach and contends that the wireline and wireless voice services are subject to many of the same regulatory policies, programs, and obligations and therefore combining these voice services into the ITSP category is an appropriate measure to comply with section 9 of the Act.[61] ITTA explains that due to changes in the communications industry and the convergence of technologies, the Wireline Competition Bureau FTEs' work is no longer focused on ITSPs.[62] According to ITTA, the work performed by Wireline Competition Bureau FTEs on universal service issues impacts various types of communications providers, not just ITSPs.[63]

20. Certain commenters agree with ITTA's proposals.[64] For example, NTCA contends that updating the ITSP category to include wireless revenues would be a "rational step."[65] CenturyLink explains that this would be analogous to including VoIP providers in the ITSP category and DBS in the cable television/IPTV category.[66] Frontier states that the work of various Wireline Competition Bureau divisions is "inseparable from wireless carriers" and the divisions work "for the benefit of . . . all telecommunications service providers."[67] These commenters also support allocating Wireless Telecommunications Bureau FTEs to the Wireline Competition Bureau for regulatory fee purposes.[68] In addition, Frontier supports requiring broadband Internet service providers to pay ITSP regulatory fees.[69]

21. ITTA and CenturyLink argue that if wireless and wireline voice services are not combined in the ITSP category or Wireline Competition Bureau FTEs are not allocated to the Wireless Telecommunications Bureau for regulatory fee purposes, we should reassign some Wireline Competition Bureau FTEs as indirect FTEs.[70] ITTA contends that the high-cost and Lifeline universal service programs benefit regulatees in addition to ITSPs and that we should therefore "adjust its fee structure to account for this industry crossover."[71] Commenters contend that all Wireline Competition Bureau FTEs that work on "cross-jurisdictional issues" such as numbering and universal service should be reassigned as indirect.[72]

22. CTIA disagrees with the ITTA proposal and contends that there is no basis to reassign Wireline Competition Bureau FTEs to the Wireless Telecommunications Bureau because Wireless Telecommunications Bureau FTEs already participate in wireline proceedings to the extent they raise wireless issues.[73] Also, substantial differences exist between wireless and wireline services concerning regulatory oversight which militate against combining, based on revenues, the CMRS and ITSP fee categories.[74] Wireless providers are not subject to the regulations and requirements imposed on ITSPs, and logically combining CMRS into the ITSP category (based on

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[52] EchoStar Comments at 3 (discussing elimination of the annual reporting requirement for blanket FSS earth station licenses in the 20/30 GHz bands). *See also Comprehensive Review of Licensing and Operation Rules for Satellite Services,* Second Report and Order, 30 FCC Rcd 14713 (2015).

[53] EchoStar Comments at 2–3.

[54] *FY 2016 NPRM,* 81 FR 35680, at 35683, note 20.

[55] Submarine Cable Coalition Comments at 3–7.

[56] *Id.* at 2–4, 6–7.

[57] *Id.*

[58] *See FY 2015 Report and Order,* 30 FCC Rcd at 10273–74, paragraph 12.

[59] *Assessment and Collection of Regulatory Fees for Fiscal Year 1997,* MD Docket No. 96–186, Report and Order, 12 FCC Rcd at 17188, paragraphs 68–69 (1997) (*FY 1997 Report and Order*).

[60] *See FY 2015 Report and Order,* 30 FCC Rcd at 10281–82, paragraphs 31–34; *FY 2014 NPRM,* 29 FCC Rcd at 6430–31, paragraphs 36–39; *FY 2013 NPRM,* 28 FCC Rcd at 7796, paragraph 12; *FY 2008 FNPRM,* 24 FCC Rcd at 6404–05, paragraphs 40–41.

[61] ITTA Comments at 6.

[62] *Id.*

[63] *Id.* at 7. ITTA also lists other issues that it contends are within the Wireline Competition Bureau but affect entities that are not ITSPs, such as number portability, 911 emergency access, special access, rate integration, customer proprietary network information, pole attachments, and CALEA. ITTA Comments at 7.

[64] *See, e.g.* , NTCA Comments at 2–4; CenturyLink Comments at 1–6; Frontier Comments at 1–9; ACA Comments at 11–14.

[65] NTCA Comments at 3.

[66] CenturyLink Comments at 4–5.

[67] Frontier Comments at 6.

[68] Frontier Comments at 7–8; NTCA Comments at 3; CenturyLink Comments at 6–8.

[69] Frontier Comments at 9.

[70] ITTA Comments at 8–9; CenturyLink Comments at 7–8.

[71] ITTA Comments at 7–8.

[72] Frontier Comments at 8 & 10; ITTA Comments at 10; CenturyLink Comments at 7. CenturyLink also contends that FTEs working on 911 issues should be indirect. CenturyLink Comments at 7. As CTIA observes, these FTEs are primarily in the Public Safety and Homeland Security Bureau and are indirect. CTIA Reply Comments at 5.

[73] CTIA Comments at 2 & Reply Comments at 2. CTIA also observes that the ITTA proposal would result in CMRS providers paying regulatory fees based on Wireless Telecommunications Bureau FTEs and Wireline Competition Bureau FTEs. CTIA Reply Comments at 3.

[74] CTIA Comments at 2 & Reply Comments at 2–3.

revenues) merely because both offer voice services ignores the fundamental differences in the work done by FTEs in these two bureaus.[75] CTIA further contends that there is insufficient information to support a clear case for the reclassification of FTEs that work on universal service or numbering issues from direct to indirect.[76]

23. CTIA stresses that the number of FTEs working on any given issue could change significantly year-to-year depending on the individual proceedings the Commission undertakes in any given year, *e.g.,* there has been significant work within the past year on adopting and implementing various components of the Connect America Fund (CAF), reforming the Lifeline Program, and implementing procedures to allow VoIP providers to obtain numbers directly from the numbering administrator.[77] CTIA therefore recommends additional detailed analysis to demonstrate whether and how the number of FTEs working on particular issues may fluctuate and thus the impact of the potential reclassification of those FTEs as indirect.[78]

24. The Commission has emphasized that reallocation of some of the International Bureau's FTEs as indirect was a "singular case" because the work of those International Bureau FTEs "primarily benefits licensees regulated by other bureaus." [79] We have further stated, "apart from the unique nature of the International Bureau FTEs, the work of all the FTEs in a core bureau contributes to the cost of regulating and overseeing the licensees of that bureau." [80] We concluded that "[g]iven the significant implications of reassignment of FTEs in our fee calculation, we make changes to FTE classifications only after performing considerable analysis and finding the clearest case for reassignment." [81]

25. After reviewing the record, we decline to adopt the ITTA proposal. In particular, we conclude that ITTA's proposal does not address this issue in a manner that is reasonable and in compliance with section 9 of the Act. ITTA does not contend that industries other than those in the ITSP regulatory fee category, *i.e.,* CMRS, are subject to the oversight and regulation of the Wireline Competition Bureau or that CMRS creates significant costs for the Wireline Competition Bureau due to such oversight and regulation. We recognize that the CMRS industry participates in the universal service Lifeline program, and that the Wireline Competition Bureau FTEs are responsible for the oversight and regulation of the universal service mechanisms. We are not convinced at this time that this relationship is sufficient to support a reassignment of the FTEs from the Wireline Competition Bureau to the Wireless Telecommunications Bureau, particularly when the FTEs closely involved in wireless Lifeline issues are indirect FTEs, in the Enforcement Bureau and elsewhere, addressing compliance with the Commission's rules.

26. Further, the number of FTEs working on any given issue changes significantly depending on the individual proceedings the Commission undertakes in any given year. We now update FTE allocations on an annual basis to more accurately reflect the number of FTEs working on regulation and oversight of the regulatees in the various fee categories.[82] To attempt to reallocate Wireline Competition Bureau FTEs each year based on particular work assignments is a subjective process that would likely result in unpredictable fluctuations in regulatory fees from year to year. In addition, to the extent wireline proceedings raise wireless issues, Wireless Telecommunications Bureau FTEs already are involved in work related to the wireless issues in such proceedings.[83]

27. ITTA's proposals also do not take into account that many indirect FTEs throughout the Commission outside of the Wireline Competition Bureau work on universal service and other wireline issues. For example, indirect FTEs in the Enforcement Bureau, Office of Managing Director, as well as other bureaus and offices work on various universal service issues. Therefore, it is incorrect to contend that primarily FTEs in the Wireline Competition Bureau are devoted to all of the universal service issues. Further, ITTA's proposal to reassign some or all of the Wireline Competition Bureau FTEs working on universal service as indirect FTEs ignores licensees not involved in high-cost and Lifeline universal service issues, such as radio and television broadcasters, that would be responsible for contributing to the cost of those Wireline Competition Bureau FTEs. Although we recognize Wireline Competition Bureau proceedings can affect other industries, such as CMRS, we are not convinced that this demonstrates the "clearest case" for reassignment of FTEs. For these reasons, we decline to adopt the ITTA proposal at this time.

5. DBS Rate Issues

28. In 2015, we adopted the initial regulatory fee for DBS as a subcategory in the cable television and IPTV category of 12 cents per year per subscriber, or one cent per month.[84] At that time, we stated that we would update the rate as necessary to ensure an appropriate level of regulatory parity and considering the resources dedicated to this subcategory.[85] Such examination is consistent with a report issued by the Government Accountability Office (GAO) in 2012, which observed it is important for the Commission to "regularly update analyses to ensure that fees are set based on relevant information." [86] When we adopted this regulatory fee subcategory for DBS, we observed that numerous regulatory developments had increased the Media Bureau FTE activity involving regulation and oversight of multichannel video programming distributors (MVPDs), including DBS providers.[87] For example, DBS providers (and cable television operators) are permitted to file program access complaints [88] and retransmission consent complaints.[89] In addition, DBS providers are subject to MVPD requirements such as those pertaining to program carriage [90] and the requirement to negotiate retransmission consent in good faith.[91] We also observed that the Commission had recently adopted requirements that apply to all MVPDs and thus equally apply to DBS providers as part of its implementation of the Commercial Advertisement Loudness Mitigation Act (CALM Act),[92] the Twenty-First Century Communications

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[75] CTIA Comments at 2–3 (citing *FY 2016 NPRM,* 31 FCC Rcd at 5765–66, paragraph 18.).

[76] *Id.* at 3–5.

[77] CTIA Comments at 5 & Reply Comments at 3.

[78] CTIA Comments at 5 & Reply Comments at 3–5.

[79] *FY 2013 Report and Order,* 28 FCC Rcd at 12355, paragraph 14.

[80] *FY 2015 Report and Order,* 30 FCC Rcd at 10274, paragraph 15.

[81] *Id.* 30 FCC Rcd at 10274–75, paragraph 15.

[82] *See FY 2015 Report and Order,* 30 FCC Rcd at 10274, paragraph 15.

[83] CTIA Comments at 2.

[84] *FY 2015 Report and Order and FNPRM,* 30 FCC Rcd at 10276–77, paragraphs 19–20.

[85] *Id.,* 30 FCC Rcd at 10277, paragraph 20.

[86] GAO "*Federal Communications Commission Regulatory Fee Process Needs to be Updated,*" GAO–12–686 (August 2012) *at 12, available at http://www.gao.gov/products/GAO-12-686.*

[87] *See FY 2015 Report and Order,* 30 FCC Rcd at 5367–68, paragraph 31.

[88] 47 U.S.C. 548; 47 CFR 76.1000–1004.

[89] 47 U.S.C. 325(b)(1), (3)(C)(ii); 47 CFR 76.65(b).

[90] 47 U.S.C. 536; 47 CFR 76.1300–1302.

[91] 47 U.S.C. 325(b)(3)(C)(iii); 47 CFR 76.65(a)–(b).

[92] *See Implementation of the Commercial Advertisement, Loudness Mitigation (CALM) Act,* Report and Order, 26 FCC Rcd 17222 (2011) (*CALM Act Report and Order*).

and Video Accessibility Act of 2010 (CVAA),[93] as well as the Satellite Television Extension and Localism Act (STELA) Reauthorization Act of 2014 (STELAR).[94]

29. In the *FY 2016 NPRM,* we observed that DBS, along with other MVPDs, continues to receive increased oversight and regulation as a result of the work of Media Bureau FTEs. For example, we recently adopted a *Report and Order* requiring cable television operators, DBS providers, and certain other licensees to post their public file documents to the FCC-hosted online database.[95] In addition, we recently released a *Notice of Proposed Rulemaking* pertaining to set-top boxes of cable television and DBS operators.[96] These recent proceedings involving DBS further demonstrate that DBS providers impose regulatory costs and receive benefit from the activities of the Media Bureau FTEs that affect all MVPDs. In the *FY 2016 NPRM,* we sought comment on a higher regulatory fee rate of 27 cents per subscriber per year for FY 2016—a 24 cent per subscriber baseline with a proportional adjustment of three cents per subscriber associated with facilities reduction costs.[97] This fee would be slightly higher than two cents per month per subscriber and would remain significantly below the cable television/IPTV rate of $1.00 per year.[98]

30. Commenters representing the cable television industry agree that the Media Bureau FTEs increasingly devote time to issues involving the entire MVPD industry, and that DBS, cable television, and IPTV all receive oversight and regulation as a result of the work of the Media Bureau FTEs on MVPD issues.[99] These commenters argue that regulatory fee parity for all MVPDs paying into the cable television/IPTV fee category is therefore justified because there is a "relatively small difference from a regulatory perspective" between DBS and cable television/IPTV.[100] ACA observes [101] that AT&T, the nation's largest MVPD,[102] operates its U-verse IPTV service and its DirecTV DBS service,[103] yet will be assessed lower regulatory fees for its approximately 20 million DirecTV subscribers than it will pay for its approximately six million IPTV subscribers, although these services use comparable Media Bureau FTE resources.[104]

31. ACA agrees that the previously adopted phase-in period was the correct approach; however, DBS providers have already had the benefit of an adequate phase-in and should now be brought quickly up to parity with cable television and IPTV.[105] Thus, ACA and NCTA argue, the Commission should either assess all payors in the cable television/IPTV fee category the same level of fees, or, at a minimum, assess DBS fee payors a higher fee and commit to raising that by 2017 to the fees assessed on cable television operators and IPTV providers.[106]

32. The two DBS providers, AT&T and DISH, however, disagree with our proposal and argue that there is no justification for increasing the fee to 27 cents per subscriber per year for FY 2016.[107] AT&T contends that we have failed to demonstrate any specific reason for this fee increase for DBS providers.[108] DISH argues that the increase of an additional 15 cents per subscriber per year will subject DBS providers to "rate shock" and that we have abandoned our "phased approach." [109] We disagree that this rate increase, still substantially below the cable television/IPTV rate, will cause "rate shock." As NTCA observes, it is unpersuasive that rate shock will occur under "a 27 cents annual fee for services that cost on average about $100 per month." [110]

33. The proposed fee of 27 cents per subscriber per year continues to follow our decision to assess fees for DBS in the cable television/IPTV category. In particular, the increase we adopt today is not based on an incremental increase in Media Bureau FTEs working on MVPD issues,[111] but is supported by data and analysis and wholly consistent

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[93] Public Law 111–260, 124 Stat. 2751 (2010). *See also Amendment of Twenty-First Century Communications and Video Accessibility Act of 2010,* Public Law 111–265, 124 Stat. 2795 (2010) (making corrections to the CVAA); 47 CFR part 79; *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010,* Notice of Proposed Rulemaking, 31 FCC Rcd 2463 (2016).

[94] The STELA Reauthorization Act of 2014 (STELAR), Public Law 113–200, 128 Stat. 2059 (2014). STELAR was enacted on Dec. 4, 2014 (H.R. 5728, 113th Cong.). Commission work on implementation of the Act was immediate. *See, e.g., Implementation of Sections 101, 103 and 105 of the STELA Reauthorization Act of 2014,* Order, 30 FCC Rcd 2380 (2015) (implementing certain STELAR provisions under the "good cause" exception to the Administrative Procedure Act); *Amendment to the Commission's Rules Concerning Market Modification, Implementation of Section 102 of the STELA Reauthorization Act of 2014,* Report and Order, 30 FCC Rcd 10406 (2015) (adopting satellite television market modification rules to enable satellite carriers, cable operators, and commercial television stations to better serve the interests of their local communities); *Implementation of Section 103 of the STELA Reauthorization Act of 2014,* Notice of Proposed Rulemaking, 30 FCC Rcd 10327 (2015) (seeking comment on potential updates to the "totality of the circumstances" test for good faith negotiation of retransmission consent); Final Report of the DSTAC, *available at https://transition.fcc.gov/dstac/dstac-report-final-08282015.pdf;* "Media Bureau Seeks Comment on DSTAC Report," Public Notice, 30 FCC Rcd 15293 (MB 2015); "Media Bureau Seeks Comment for Report Required by the STELA Reauthorization Act of 2014," Public Notice, 30 FCC Rcd 1904 (2015) (seeking information for a report to Congress on designated market areas and considerations for fostering increased localism).

[95] *Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees,* Report and Order, 31 FCC Rcd 526 (2016).

[96] *Expanding Consumers' Video Navigation Choices, Commercial Availability of Navigation Devices,* Notice of Proposed Rulemaking and Memorandum Opinion and Order, 31 FCC Rcd 1544 (2016). *See also Promoting the Availability of Diverse and Independent Sources of Video Programming,* Notice of Inquiry, 31 FCC Rcd 1610 (2016).

[97] For FY 2015, we adopted a rate for DBS of 12 cents per subscriber per year, or one cent per month per subscriber. By way of comparison, the cable television and IPTV rate adopted for FY 2015 was 96 cents per subscriber per year.

[98] The agency is not required to calculate its costs with "scientific precision." *Central & Southern Motor Freight Tariff Ass'n* v. *United States,* 777 F.2d 722, 736 (D.C. Cir. 1985). Reasonable approximations will suffice. *Id.;* Mississippi Power & Light, 601 F.2d at 232; National Cable Television Ass'n v. FCC, 554 F.2d 1094, 1105 (D.C. Cir. 1976); 36 Comp. Gen. 75 (1956).

[99] ACA Comments at 3–11; NCTA Reply Comments at 3–7.

[100] ACA Comments at 3–7; NCTA Reply Comments at 7.

[101] ACA Comments at 9.

[102] When the Commission sought comment on including IPTV into the cable television fee category, AT&T, an IPTV service provider, advocated a "broader MVPD category . . . because it could encompass both cable service and non-cable service video offerings, like IPTV, and allow for evolution in the MVPD market." AT&T Comments (MD Docket No. 13–140) at 5.

[103] *Applications of AT&T Inc. and DirecTV; For Consent to Assign or Transfer Control of Licenses and Authorizations,* Memorandum Opinion and Order, 30 FCC Rcd 9131 (2016).

[104] *See, e.g., Implementation of Section 103 of the STELA Reauthorization Act of 2014,* MB Docket Nos. 15–216 and 10–71, Ex Parte Letter to Marlene Dortch, Secretary, FCC, from Sean A. Lev, Counsel to AT&T Services, Inc. (filed March 16, 2016). Moreover, recent press reports indicate that AT&T's U-verse subscribers are declining, while their DirecTV subscribers are increasing, which will lower its Media Bureau regulatory fee burden. *See http://variety.com/2016/biz/news/directv-att-tv-shrinks-q2-2016-1201819654/; http://www.hollywoodreporter.com/news/at-t-loses-pay-tv-913277.*

[105] ACA Comments at 9–11 & Reply Comments at 15.

[106] ACA Comments at 9–11; NCTA Reply Comments at 9.

[107] AT&T Comments at 1–3; DISH Comments at 4–6 & Reply Comments at 2–3.

[108] AT&T Comments at 1–3.

[109] DISH Comments at 7–8.

[110] NTCA Reply Comments at 2–3 (footnote omitted); ACA Reply Comments at 2 ("claims . . . that the Commission's proposed increase will cause 'rate shock' . . . should not be given any credence."). The two DBS providers, AT&T and DISH, are the largest and fourth largest MVPDs in the nation, and multi-billion dollar corporations. *Id.* at 14.

[111] This appears to be the DBS position. *See* AT&T Comments at 2; DISH Comments at 6 & Reply Comments at 3.

with the approach used in FY 2015.[112] We reiterate that the DBS and cable television/IPTV oversight and regulatory work of Media Bureau FTEs is similar.[113] As such, we remain committed as a goal to regulatory fee parity for all MVPDs paying into the cable television/IPTV fee category.[114] We find it appropriate to adopt the rate proposed in the *FY 2016 NPRM*.[115] For reasons similar to those discussed in the *FY 2015 NPRM*,[116] and based on our analysis of the resources dedicated to this subcategory, including the resources dedicated to the pending portfolio of MVPD proceedings, we revise the DBS fee rate. Specifically, in this FY 2016 regulatory fee proceeding, we adopt a DBS fee rate of 27 cents per subscriber per year for FY 2016, as set forth in the fee schedule. This fee includes a 24 cent per subscriber baseline with a proportional adjustment of three cents per subscriber associated with facilities reduction costs.

6. Broadcasters' Fees

a. AM and FM Broadcasters Serving the Smallest Two Market Levels (<=25,000 and 25,001–75,000)

34. In the *FY 2016 NPRM*, we proposed to include a higher population row in the table for AM and FM broadcasters, *i.e.*, to divide broadcasters that serve 3,000,001–6,000,000 from those that have a higher population coverage.[117] Similarly, we proposed to standardize the incremental increase in fees as the population served increases,[118] and to more consistently assess fees based on the type and class of service.[119] We also proposed to adjust the television broadcasters table so that Top 10 market stations should pay about twice what stations in markets 26–50 pay.[120]

35. Several commenters contend that our proposal is too burdensome for small independent radio and television stations.[121] One commenter contends that the addition of "greater than 6 million" is a welcome step for radio broadcasters, but that it does not go far enough because AM stations bill far less advertising revenue than FM stations.[122] Another commenter, representing a group of recording artists, observes that "the [radio] stations that support us the most are the smaller independents not affiliated with the major networks. These smaller stations struggle on a day-to-day basis." [123] Several commenters suggest that we use a combination of revenue and a set fee instead of a market-based fee, to assess regulatory fees for radio and television broadcasters.[124]

36. We do not require broadcasters to report their revenues. Thus, the revenue-based proposal is not practicable at this time. We agree, however, that the proposed rates should be revised downward for the smaller AM and FM radio broadcast stations. Extending some relief to these small radio broadcasters may facilitate their continued ability to stay in business and serve their small and rural communities. Therefore, after reviewing the record, including the comments filed by the industry describing the economic hardship faced by many small rural independent radio stations, we are adopting a revised version of the proposed table in the *FY 2016 NPRM* and reducing the regulatory fees in the two lowest population tiers for AM and FM broadcasters from the amounts proposed.[125]

TABLE 1—FY 2016 AM AND FM RADIO STATION REGULATORY FEES

Population served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C0, C1 & C2
<=25,000	$990	$715	$620	$685	$1,075	$1,250
25,001–75,000	1,475	1,075	925	1,025	1,625	1,850
75,001–150,000	2,200	1,600	1,375	1,525	2,400	2,750
150,001–500,000	3,300	2,375	2,075	2,275	3,600	4,125
500,001–1,200,000	5,500	3,975	3,450	3,800	6,000	6,875
1,200,001–3,000,00	8,250	5,950	5,175	5,700	9,000	10,300
3,000,001–6,000,00	11,000	7,950	6,900	7,600	12,000	13,750

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[112] *See FY 2015 Report and Order,* 30 FCC Rcd at 10277, paragraph 20 (finding that the initial rate of 12 cents per subscriber per year is a "sensible fee supported by data and analysis.")

[113] *FY 2016 NPRM,* 81 FRt 35680, at 35683, paragraphs 13–14.; *FY 2015 NPRM,* 30 FCC Rcd at 5369, paragraph 33.

[114] *See FY 2015 Report and Order,* 30 FCC Rcd at 10277, paragraph 20 ("In the FY 2016 regulatory fee proceeding, we will update this rate for future years, based on relevant information, as necessary for ensuring an appropriate level of regulatory parity and considering the resources dedicated to this new regulatory fee subcategory.").

[115] *FY 2016 NPRM,* 81 FR 35680, at 35683 at paragraph 14.

[116] *FY 2015 NPRM,* 30 FCC Rcd at 5367–5373, paragraphs 31–41.

[117] *FY 2016 NPRM,* 81 FR 35680, at 35684, paragraph 17. We also sought comment on this issue in the Further Notice of Proposed Rulemaking attached to the *FY 2015 Report and Order. See FY 2015 Report and Order,* 30 FCC Rcd at 10280, paragraph 28.

[118] *Id.* Specifically, we sought comment on standardizing the incremental increase in fees as radio broadcasters increase the population they serve, such as by requiring that fee adjustments between tiers monotonically increase as the population served increases. *Id.*

[119] *Id.* We sought comment on assessing fees based on the relative type and class of service, such as by assessing FM class B, C, C0, C1, & C2 stations at twice the rate of AM class C stations, and FM class A, B1, & C3 stations assessed at 75 percent more than AM class C stations. For AM stations, we sought comment on assessing AM class A stations at 60 percent more, AM class B stations at 15 percent more, and AM class D stations at 10 percent more than AM class C stations. *Id.*

[120] *FY 2016 NPRM,* 81 FR 35680, at 35685, paragraph 19. We also sought comment on this issue in the Further Notice of Proposed Rulemaking attached to the *FY 2015 Report and Order. See FY 2015 Report and Order,* 30 FCC Rcd at 10280–81, paragraph 29.

[121] Marquee Broadcasting Comments at 1 ("[The proposal] places a disproportional burden on small, independent broadcast [television] stations, the very group the FCC should hope to encourage in an industry of giants."); Koor Communications Reply Comments at 1 ("The present system of calculating regulatory fees is very lopsided and unfair especially to small market AM Broadcasters."); P & M Radio Reply Comments at 1 ("I, along with many owner-operators of independent AM stations, have been struggling in the past decade just to stay on the air."); Blackbelt Broadcasting Comments at 1 ("the proposed fee increase (and structure) [should be] revaluated [to] consider the burden this will put on many small rural [FM] broadcasters."); Fitzgerald Comments at 2 ("Stations with populations under 25,000 served are for the most part, very small 'Mom and Pop' style stations. These [proposed] massive increases will greatly harm these . . . [radio] stations which generate very small amounts of revenue."); Faxon Reply Comments at 1 ("The proposed regulatory fees for 2016 do not make sense and place an extreme burden on small market radio stations.").

[122] Bittner Comments at 1.

[123] Brigham Reply Comments at 1.

[124] Bittner Broadcasting Comments at 1–3; Marquee Broadcasting Comments at 1; Brigham Reply Comments at 1; Koor Communications Reply Comments at 1; P & M Radio Reply Comments at 1; Faxon Reply Comments at 1.

[125] PMCM TV suggests that we assess a lower fee for VHF TV stations than UHF stations. PMCM TV Comments at 3–4. We decline to adopt this proposal here, but intend to seek comment on it in the FY 2017 Notice of Proposed Rulemaking.

TABLE 1—FY 2016 AM AND FM RADIO STATION REGULATORY FEES—Continued

Population served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C0, C1 & C2
>6,000,000	13,750	9,950	8,625	9,500	15,000	17,175

b. Puerto Rico Broadcasters Association Proposal

37. The PRBA and Arso comment on the issues set forth in the PRBA December 10, 2014 letter (PRBA Letter),[126] seeking regulatory fee relief for the radio broadcasters in the Commonwealth of Puerto Rico due to economic hardship, unique geography, and declining population.[127] In the PRBA Letter, PRBA requested that the Commission use more recent figures to determine the radio station population count for radio stations in Puerto Rico.[128] PRBA stated that due to the economic hardship in the territory, the population has decreased in the past nine years by almost six percent because of migration to the mainland United States and a declining birthrate.[129] Finally, PRBA contended that the radio listening market is limited because it is restricted to listeners within the boundaries of the island.[130]

38. PRBA and Arso contend that the economic situation has worsened since the PRBA Letter was filed, and that it is crucial that the Commission provide relief from regulatory fee obligations for Puerto Rican broadcasters.[131] PRBA contends that requiring each radio and television station to submit a waiver request would negate any benefit of the Commission's efforts.[132] Arso observes that it would be burdensome for companies to pay the regulatory fee when requesting a fee reduction.[133] Instead, PRBA contends, the Commission should either move the Puerto Rican stations to a lower population stratum[134] or create a separate fee category for the Puerto Rican market.[135] PRBA urges the Commission to adopt the second proposal—a separate fee category for the entire Puerto Rican market—at a rate 30 percent lower than the normal rate for each station.[136]

39. We decline to adopt the PRBA proposal at this time. Fee relief is ordinarily processed through a waiver request or payment deferral.[137] While we recognize that the economic situation in Puerto Rico is difficult in general, without the specific information needed to justify a waiver request or payment deferral we would not know the particular circumstances of the regulatee or licensee to support a request for relief. Information concerning how to request fee relief can be found on our Web site, *e.g., https://www.fcc.gov/document/fy-2015-waiver-regulatory-fees-fact-sheet.* As discussed above, we are adopting a revised version of the proposed table and thus reducing the regulatory fees in the two lowest population tiers from the amount proposed for radio broadcasters, which should provide some amount of fee relief to eleven of the PRBA stations.[138]

c. Broadcast Television Incentive Auction—Reminder To Pay FY 2016 and FY 2017 Regulatory Fees

40. The Commission's Broadcast Television Incentive Auction (Incentive Auction) is underway, and all broadcast television licensees are reminded that they continue to be responsible for payment of FY 2016 regulatory fees if they held a license or construction permit as of October 1, 2015, as well as for payment of FY 2017 regulatory fees if they continue to hold their license or construction permit as of October 1, 2016. Licensees must pay the required regulatory fees to avoid any delay of payments resulting from the Incentive Auction.[139] Finally, regulatees are reminded that non-payment of regulatory fees, if required, will place them in red light status and prevent them from conducting business with the Commission.

V. Procedural Matters

A. Payment of Regulatory Fees

1. Payments by Check Will Not Be Accepted for Payment of Annual Regulatory Fees

41. Pursuant to an Office of Management and Budget (OMB) directive,[140] the Commission is moving towards a paperless environment, extending to disbursement and collection of select federal government

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[126] PRBA Comments at 1–5; Arso Comments at 1–7.

[127] We previously sought comment on: (i) Moving the Puerto Rico market stations to a different rate (or a lower population stratum) because of the downward trend in the population and other factors; (ii) creating a separate fee category for the Puerto Rico market at a lower rate; or (iii) adopting a special provision in our rules for economically depressed geographic areas to seek a "fast track" waiver of regulatory fees. *See FY 2015 NPRM,* 30 FCC Rcd at 5360–61, paragraphs 15–18. Arso observes that the "fast track" proposal would require a rulemaking procedure, which would be time-consuming, and the Puerto Rican stations need immediate relief. Arso Comments at 4.

[128] PRBA Letter at 2–4. PRBA asked the Commission to examine population data every five years instead of every 10 years to increase the accuracy of the population counts in Puerto Rico. The Commission explained that radio station population counts are updated every ten years to reflect nationwide changes in the population using the "block level census data" from the U.S. Census, therefore we could not adopt PRBA's suggestion because the "block level census data" is only available from the U.S. Census Bureau every 10 years. Further, even if such figures were available every five years, they would be unlikely to provide a basis for fee relief for radio stations in Puerto Rico because fees on AM and FM radio stations are not assessed at granular levels. *See* FY 2015 NPRM, 30 FCC Rcd at 5360–61, paragraphs 15–18.

[129] PRBA Letter at 3.

[130] *Id.* at 5.

[131] PRBA Comments at 2; Arso Comments at 3.

[132] PRBA Comments at 3. Arso Comments at

[133] Arso Comments at 3–4.

[134] PRBA suggests moving two levels down to account for population loss and economic difficulties. PRBA Comments at 4.

[135] PRBA Comments at 3–4. Arso Comments at

[136] PRBA Comments at 4. Arso Comments at

[137] Fees may be waived, reduced or deferred in specific instances, on a case-by-case basis, where good cause is shown and where waiver, reduction, or deferral of the fee would promote the public interest. 47 U.S.C. 159(d); 47 CFR 1.1166. Fee relief may be granted based on a "sufficient showing of financial hardship." *See Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year,* Memorandum Opinion and Order, 10 FCC Rcd 12759, 12761–62, paragraph 13 (1995). In such matters, however, "[m]ere allegations or documentation of financial loss, standing alone," do not suffice and "it [is] incumbent upon each regulatee to fully document its financial position and show that it lacks sufficient funds to pay the regulatory fee and to maintain its service to the public." *Id.*

[138] The remaining radio stations in Puerto Rico are situated in the top three fee category tiers. In addition to providing relief to eleven Puerto Rican radio stations, a reduction in the fees of the two lowest fee categories also provides relief to many small non-Puerto Rican stations, including several dozen radio stations in the U.S. territories in the Pacific and in the Caribbean (*e.g.,* Guam, American Samoa, Saipan, and U.S. Virgin Islands).

[139] *Application Procedures for Broadcast Incentive Auction Scheduled to Begin on March 29, 2016; Technical Formulas for Competitive Bidding,* Public Notice, 30 FCC Rcd 11034, 11041–42, paragraphs 12–14 (WTB 2015); *see also Expanding the Economic and Innovation Opportunities of Spectrum Though Incentive Auctions,* Report and Order, 29 FCC Rcd at 6567, 6785, n.1512 (2014).

[140] Office of Management and Budget (OMB) Memorandum M–10–06, Open Government Directive, Dec. 8, 2009; *see also http://www.whitehouse.gov/the-press-office/2011/06/13/executive-order-13576-delivering-efficient-effective-and-accountable-gov.*

payments and receipts.[141] The initiative to reduce paper and curtail check payments for regulatory fees is expected to produce cost savings, reduce errors, and improve efficiencies across government. In FY 2015, we stopped accepting checks (including cashier's checks and money orders) and the accompanying hardcopy forms (*e.g.,* Forms 159, 159–B, 159–E, 159–W) for the payment of regulatory fees.[142] The paperless procedure requires that all payments be made by online Automated Clearing House (ACH) payment, online credit card, or wire transfer. Any other form of payment (*e.g.,* checks, cashier's checks, or money orders) will be rejected. For payments by wire, a Form 159–E should still be transmitted via fax in order to associate the wire payment with the correct regulatory fee information.[143]

2. Revised Credit Card Transaction Levels

42. Since June 1, 2015, in accordance with U.S. Treasury Announcement No. A–2014–04 (July 2014), the amount that can be charged on a credit card for transactions with federal agencies has been limited to $24,999.99.[144] Transactions greater than $24,999.99 will be rejected. This limit applies to single payments or bundled payments of more than one bill. Multiple transactions to a single agency in one day may be aggregated and treated as a single transaction subject to the $24,999.99 limit. Customers who wish to pay an amount greater than $24,999.99 should consider available electronic alternatives such as Visa or MasterCard debit cards, ACH debits from a bank account, and wire transfers. Each of these payment options is available after filing regulatory fee information in Fee Filer. Further details will be provided regarding payment methods and procedures at the time of FY 2016 regulatory fee collection in Fact Sheets, available at *https://www.fcc.gov/regfees.*

3. Payment Methods

43. During the fee season for collecting FY 2016 regulatory fees, regulatees can pay their fees by credit card through *Pay.gov,*[145] ACH, debit card,[146] or by wire transfer. Additional payment instructions are posted at *http://transition.fcc.gov/fees/regfees.html.* The receiving bank for all wire payments is the U.S. Treasury, New York, New York. When making a wire transfer, regulatees must fax a copy of their Fee Filer generated Form 159–E to the Federal Communications Commission at (202) 418–2843 at least one hour before initiating the wire transfer (but on the same business day) so as not to delay crediting their account. Regulatees should discuss arrangements (including bank closing schedules) with their bankers several days before they plan to make the wire transfer to allow sufficient time for the transfer to be initiated and completed before the deadline. Complete instructions for making wire payments are posted at *http://ransition.fcc.gov/fees/wiretran.html.*

4. De Minimis Regulatory Fees

44. Regulatees whose total FY 2016 annual regulatory fee liability, including all categories of fees for which payment is due, is $500 or less are exempt from payment of FY 2015 regulatory fees. The *de minimis* threshold applies only to filers of annual regulatory fees (not regulatory fees paid through multi-year filings), and is not a permanent exemption. Regulatees will need to reevaluate their total fee liability each fiscal year to determine whether they meet the *de minimis* exemption.

5. Standard Fee Calculations and Payment Dates

45. The Commission will accept fee payments made in advance of the window for the payment of regulatory fees. The responsibility for payment of fees by service category is as follows:

- *Media Services:* Regulatory fees must be paid for initial construction permits that were granted on or before October 1, 2015 for AM/FM radio stations, VHF/UHF full service television stations, and satellite television stations. Regulatory fees must be paid for all broadcast facility licenses granted on or before October 1, 2015. For providers of DBS service, regulatory fees should be paid based on a subscriber count on or about December 31, 2015. In instances where a permit or license is transferred or assigned after October 1, 2015, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *Wireline (Common Carrier) Services:* Regulatory fees must be paid for authorizations that were granted on or before October 1, 2015. In instances where a permit or license is transferred or assigned after October 1, 2015, responsibility for payment rests with the holder of the permit or license as of the fee due date. Audio bridging service providers are included in this category.[147] For RespOrgs that manage Toll Free Numbers (TFN), regulatory fees should be paid on all working, assigned, and reserved toll free numbers, including those toll free numbers that are in transit status, or any other status as defined in section 52.103 of the Commission's rules. The unit count should be based on toll free numbers managed by RespOrgs on or about December 31, 2015.
- *Wireless Services:* CMRS cellular, mobile, and messaging services (fees based on number of subscribers or telephone number count): Regulatory fees must be paid for authorizations that were granted on or before October 1, 2015. The number of subscribers, units, or telephone numbers on December 31, 2015 will be used as the basis from which to calculate the fee payment. In instances where a permit or license is transferred or assigned after October 1, 2015, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *Wireless Services, Multi-year fees:* The first eight regulatory fee categories in our Schedule of Regulatory Fees pay "small multi-year wireless regulatory fees." Entities pay these regulatory fees in advance for the entire amount period covered by the five-year or ten-year terms of their initial licenses, and pay regulatory fees again only when the license is renewed or a new license is obtained. We include these fee categories in our rulemaking (*see Table 3*) to publicize our estimates of the number of "small multi-year wireless" licenses that will be renewed or newly obtained in FY 2016.

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[141] *See* U.S. Department of the Treasury, Open Government Plan 2.1, Sept. 2012.

[142] *FY 2015 Report and Order,* 30 FCC Rcd at 10282–83, paragraph 35.

[143] As we explained in 2015, payors should note that to the extent certain entities have to date paid both regulatory fees and application fees at the same time via paper check, they will no longer be able to do so as the regulatory fees payment via paper check will no longer be accepted.

[144] Customers who owe an amount on a bill, debt, or other obligation due to the federal government are prohibited from splitting the total amount due into multiple payments. Splitting an amount owed into several payment transactions violates the credit card network and Fiscal Service rules. An amount owed that exceeds the Fiscal Service maximum dollar amount, $24,999.99, may not be split into two or more payment transactions in the same day by using one or multiple cards. Also, an amount owed that exceeds the Fiscal Service maximum dollar amount may not be split into two or more transactions over multiple days by using one or more cards.

[145] In accordance with U.S. Treasury Financial Manual Announcement No. A–2014–04 (July 2014), the amount that may be charged on a credit card for transactions with federal agencies has been reduced to $24,999.99.

[146] In accordance with U.S. Treasury Financial Manual Announcement No. A–2012–02, the maximum dollar-value limit for debit card transactions is eliminated. Only Visa and MasterCard branded debit cards are accepted by *Pay.gov.*

[147] Audio bridging services are toll teleconferencing services.

- *Multichannel Video Programming Distributor Services (cable television operators and CARS licensees):* Regulatory fees must be paid for the number of basic cable television subscribers as of December 31, 2015.[148] Regulatory fees also must be paid for CARS licenses that were granted on or before October 1, 2015. In instances where a permit or license is transferred or assigned after October 1, 2015, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *International Services:* Regulatory fees must be paid for (1) earth stations and (2) geostationary orbit space stations and non-geostationary orbit satellite systems that were licensed and operational on or before October 1, 2015. In instances where a permit or license is transferred or assigned after October 1, 2015, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *International Services: (Submarine Cable Systems):* Regulatory fees for submarine cable systems are to be paid on a per cable landing license basis based on circuit capacity as of December 31, 2015. In instances where a license is transferred or assigned after October 1, 2015, responsibility for payment rests with the holder of the license as of the fee due date. For regulatory fee purposes, the allocation in FY 2016 will remain at 87.6 percent for submarine cable and 12.4 percent for satellite/terrestrial facilities.
- *International Services: (Terrestrial and Satellite Services):* Regulatory fees for Terrestrial and Satellite International Bearer Circuits are to be paid by facilities-based common carriers that have active (used or leased) international bearer circuits as of December 31, 2015 in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier. When calculating the number of such active circuits, the facilities-based common carriers must include circuits used by themselves or their affiliates. In addition, non-common carrier satellite operators must pay a fee for each circuit they and their affiliates hold and each circuit sold or leased to any customer, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. For these purposes, "active circuits" include backup and redundant circuits as of December 31, 2015. Whether circuits are used specifically for voice or data is not relevant for purposes of determining that they are active circuits.[149] In instances where a permit or license is transferred or assigned after October 1, 2015, responsibility for payment rests with the holder of the permit or license as of the fee due date. For regulatory fee purposes, the allocation in FY 2016 will remain at 87.6 percent for submarine cable and 12.4 percent for satellite/terrestrial facilities.[150]

B. Commercial Mobile Radio Service (CMRS) Cellular and Mobile Services Assessments

46. The Commission will compile data from the Numbering Resource Utilization Forecast (NRUF) report that is based on "assigned" telephone number (subscriber) counts that have been adjusted for porting to net Type 0 ports ("in" and "out").[151] This information of telephone numbers (subscriber count) will be posted on the Commission's electronic filing and payment system (Fee Filer) along with the carrier's Operating Company Numbers (OCNs).

47. A carrier wishing to revise its telephone number (subscriber) count can do so by accessing Fee Filer and follow the prompts to revise their telephone number counts. Any revisions to the telephone number counts should be accompanied by an explanation or supporting documentation.[152] The Commission will then review the revised count and supporting documentation and either approve or disapprove the submission in Fee Filer. If the submission is disapproved, the Commission will contact the provider to afford the provider an opportunity to discuss its revised subscriber count and/or provide additional supporting documentation. If we receive no response from the provider, or we do not reverse our initial disapproval of the provider's revised count submission, the fee payment must be based on the number of subscribers listed initially in Fee Filer. Once the timeframe for revision has passed, the telephone number counts are final and are the basis upon which CMRS regulatory fees are to be paid. Providers can view their final telephone counts online in Fee Filer. A final CMRS assessment letter will not be mailed out.

48. Because some carriers do not file the NRUF report, they may not see their telephone number counts in Fee Filer. In these instances, the carriers should compute their fee payment using the standard methodology that is currently in place for CMRS Wireless services (*i.e.*, compute their telephone number counts as of December 31, 2015), and submit their fee payment accordingly. Whether a carrier reviews its telephone number counts in Fee Filer or not, the Commission reserves the right to audit the number of telephone numbers for which regulatory fees are paid. In the event that the Commission determines that the number of telephone numbers that are paid is inaccurate, the Commission will bill the carrier for the difference between what was paid and what should have been paid.

C. Enforcement

49. To be considered timely, regulatory fee payments must be made electronically by the payment due date for regulatory fees. Section 9(c) of the Act requires us to impose a late payment penalty of 25 percent of the unpaid amount to be assessed on the first day following the deadline for filing these fees.[153] Failure to pay regulatory fees and/or any late penalty will subject regulatees to sanctions, including those set forth in section 1.1910 of the Commission's rules,[154] which generally requires the Commission to withhold action on "applications, including on a petition for reconsideration or any application for review of a fee determination, or requests for authorization by any entity found to be delinquent in its debt to the Commission" and in the DCIA.[155] We

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[148] Cable television system operators should compute their number of basic subscribers as follows: Number of single family dwellings + number of individual households in multiple dwelling unit (apartments, condominiums, mobile home parks, etc.) paying at the basic subscriber rate + bulk rate customers + courtesy and free service. Note: Bulk-Rate Customers = Total annual bulk-rate charge divided by basic annual subscription rate for individual households. Operators may base their count on "a typical day in the last full week" of December 2015, rather than on a count as of December 31, 2015.

[149] We encourage terrestrial and satellite service providers to seek guidance from the International Bureau's Policy Division to verify their IBC reporting processes to ensure that their calculation methods comply with our rules.

[150] We remind facilities-based common carriers to review their reporting processes to ensure that they accurately calculate and report IBCs.

[151] *See FY 2005 Report and Order,* 20 FCC Rcd at 12264, paragraphs 38–44.

[152] In the supporting documentation, the provider will need to state a reason for the change, such as a purchase or sale of a subsidiary, the date of the transaction, and any other pertinent information that will help to justify a reason for the change.

[153] 47 U.S.C. 159(c).

[154] *See* 47 CFR 1.1910.

[155] Delinquent debt owed to the Commission triggers the "red light rule," which places a hold on the processing of pending applications, fee offsets, and pending disbursement payments. 47 CFR 1.1910, 1.1911, 1.1912. In 2004, the Commission adopted rules implementing the requirements of the DCIA. *See Amendment of Parts 0 and 1 of the Commission's Rules,* MD Docket No. 02–339, Report and Order, 19 FCC Rcd 6540 (2004); 47 CFR part

Continued

also assess administrative processing charges on delinquent debts to recover additional costs incurred in processing and handling the debt pursuant to the DCIA and section 1.1940(d) of the Commission's rules.[156] These administrative processing charges will be assessed on any delinquent regulatory fee, in addition to the 25 percent late charge penalty. In the case of partial payments (underpayments) of regulatory fees, the payor will be given credit for the amount paid, but if it is later determined that the fee paid is incorrect or not timely paid, then the 25 percent late charge penalty (and other charges and/or sanctions, as appropriate) will be assessed on the portion that is not paid in a timely manner.

50. Pursuant to the "red light rule," we will withhold action on any applications or other requests for benefits filed by anyone who is delinquent in any non-tax debts owed to the Commission (including regulatory fees) and will ultimately dismiss those applications or other requests if payment of the delinquent debt or other satisfactory arrangement for payment is not made.[157] Failure to pay regulatory fees can also result in the initiation of a proceeding to revoke any and all authorizations held by the entity responsible for paying the delinquent fee(s).[158] Pursuant to a pilot program, we have initiated procedures to transfer debt to the Centralized Receivables Service at the U.S. Treasury, as described below.

D. Transfers of Unpaid Debt to Centralized Receivables Service (CRS), U.S. Treasury

51. Under section 9 of the Act, Commission rules, and federal debt collection laws, a licensee's regulatory fee is due on the first day of the fiscal year and payable at a date established in the Commission's annual regulatory fee Report and Order. In October 2015, the Commission, under revised procedures, began transferring unpaid regulatory fee receivables directly to the CRS at the U.S. Treasury rather than trying to collect the debt itself and then transferring the remaining unpaid debts to Treasury. Under revised procedures, the Commission can transfer delinquent debt to Treasury for further collection action within 120 days after the date of delinquency.[159] However, regulatees will not likely see any substantial change in the current procedures of how past due debts are to be paid, except that the debts will be handled by CRS (U.S. Treasury) rather than by the Commission.

E. Effective Date

52. Providing a 30 day period after **Federal Register** publication before this Report and Order becomes effective as required by 5 U.S.C. 553(d) will not allow sufficient time to collect the FY 2016 fees before FY 2016 ends on September 30, 2016. For this reason, pursuant to 5 U.S.C. 553(d)(3), we find there is good cause to waive the requirements of section 553(d), and this *Report and Order* will become effective upon publication in the **Federal Register**. Because payments of the regulatory fees will not actually be due until late September, persons affected by this *Report and Order* will still have a reasonable period in which to make their payments and thereby comply with the rules established herein.

VI. Additional Tables

TABLE 2—LIST OF COMMENTERS—INITIAL COMMENTS

Commenter	Abbreviation
American Cable Association	ACA.
Arso Radio Corporation	Arso.
AT&T Services, Inc.	AT&T.
Robert Bittner, Bob Bittner Broadcasting Co.	Bittner Broadcasting.
CTIA	CTIA.
CenturyLink, Inc.	CenturyLink.
Damon Collins, Blackbelt Broadcasting, Inc.	Blackbelt Broadcasting.
DISH Network, L.L.C.	DISH.
EchoStar Satellite Operating Corporation and Hughes Network Systems, LLC	EchoStar.
Kevin M. Fitzgerald	Fitzgerald.
Frontier Communications Corporation	Frontier.
Patricia Lane, Marquee Broadcasting	Marquee Broadcasting.
Level 3 Communications, LLC	Level 3.
NTCA—The Rural Broadband Association	NTCA.
Puerto Rico Broadcasters Association	PRBA.
Somos, Inc.	Somos.
Submarine Cable Coalition	Submarine Cable Coalition.
List of Commenters—Reply Comments	
American Cable Association	ACA.
Adrian Brigham	Brigham.
CTIA	CTIA.
DISH Network, L.L.C.	DISH.
Shawn Faxon	Faxon.
Robert L. Vinikoor, Koor Communications, Inc.	Koor Communications.
National Cable & Telecommunications Association	NCTA.
NTCA—The Rural Broadband Association	NTCA.
Phillip G. Drumheller, President, P & M Radio, LLC.	P & M Radio.
PMCM TV, LLC	PMCM TV.

1, subpart O, Collection of Claims Owed the United States.

[156] 47 CFR 1.1940(d).

[157] *See* 47 CFR 1.1161(c), 1.1164(f)(5), and 1.1910.

[158] 47 U.S.C. 159.

[159] *See* 31 U.S.C. 3711(g); 31 CFR 285.12; 47 CFR 1.1917.

TABLE 3—CALCULATION OF FY 2016 REVENUE REQUIREMENTS AND PRO-RATA FEES

[Regulatory fees for the first seven fee categories below are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed]

Fee Category	FY 2016 payment units	Years	FY 2015 revenue estimate	Pro-rated FY 2016 revenue requirement	Computed FY 2016 reg. fee	Rounded FY 2016 reg. fee	Expected FY 2016 revenue
PLMRS (Exclusive Use)	2,500	10	546,000	625,000	25	25	625,000
PLMRS (Shared use) (includes Rural Radio Service (47 CFR part 22)	31,100	10	3,100,000	3,110,000	10	10	3,110,000
Microwave	12,500	10	2,520,000	3,125,000	25	25	3,125,000
Marine (Ship)	6,900	10	945,000	1,035,000	15	15	1,035,000
Aviation (Aircraft)	4,700	10	420,000	470,000	10	10	470,000
Marine (Coast)	480	10	171,500	192,000	40	40	192,000
Aviation (Ground)	1,100	10	180,000	220,000	20	20	220,000
AM Class A [4]	66	1	281,125	313,996	4,758	4,750	313,500
AM Class B [4]	1,535	1	3,499,125	3,888,014	2,533	2,525	3,875,875
AM Class C [4]	889	1	1,244,600	1,407,418	1,583	1,575	1,400,175
AM Class D [4]	1,492	1	4,103,000	4,601,097	3,084	3,075	4,587,900
FM Classes A, B1 & C3 [4]	3,122	1	8,613,000	9,649,637	3,091	3,100	9,678,200
FM Classes B, C, C0, C1 & C2 [4]	3,139	1	10,607,625	11,820,313	3,766	3,775	11,849,725
AM Construction Permits [1]	15	1	17,110	9,300	620	620	9,300
FM Construction Permits [1]	179	1	136,500	192,425	1,075	1,075	192,425
Satellite TV	128	1	200,025	224,000	1,750	1,750	224,000
Digital TV Markets 1–10	139	1	6,274,550	8,433,889	60,675	60,675	8,433,825
Digital TV Markets 11–25	139	1	5,918,400	6,348,889	45,675	45,675	6,348,825
Digital TV Markets 26–50	181	1	5,000,125	5,523,889	30,519	30,525	5,525,025
Digital TV Markets 51–100	283	1	4,605,825	4,304,746	15,211	15,200	4,301,600
Digital TV Remaining Markets	365	1	1,838,150	1,825,000	5,000	5,000	1,825,000
Digital TV Construction Permits [1]	3	1	9,700	15,000	5,000	5,000	15,000
LPTV/Translators/Boosters/Class A TV	3,924	1	1,601,600	1,785,420	455	455	1,785,420
CARS Stations	285	1	198,000	220,875	775	775	220,875
Cable TV Systems, including IPTV	64,200,000	1	61,920,000	64,200,000	1.000	1.00	64,200,000
Direct Broadcast Satellite (DBS)	34,000,000	1	4,080,000	9,180,000	.2700	.27	9,180,000
Interstate Telecommunication Service Providers	38,200,000,000	1	128,428,000	141,722,000	0.003710	0.00371	142,722,000
Toll Free Numbers	36,500,000	1	4,380,000	4,745,000	0.1300	0.13	4,745,000
CMRS Mobile Services (Cellular/Public Mobile)	366,000,000	1	60,180,000	73,200,000	0.1954	0.20	73,200,000
CMRS Messag. Services	2,300,000	1	208,000	184,000	0.0800	0.080	184,000
BRS [2]	890	1	565,150	645,250	725	725	645,250
LMDS	395	1	238,125	286,375	725	725	286,375
Per 64 kbps Int'l Bearer Circuits Terrestrial (Common) & Satellite (Common & Non-Common)	31,900,000	1	657,000	776,617	.0243	.02	638,000
Submarine Cable Providers (see chart in Appendix B) [3]	41.19	1	4,652,576	5,486,427	133,205	133,200	5,486,242
Earth Stations	3,400	1	1,023,000	1,173,000	345	345	1,173,000
Space Stations (Geostationary)	95	1	11,438,400	13,155,125	138,475	138,475	13,155,125
Space Stations (Non-Geostationary)	6	1	792,750	911,700	151,950	151,950	911,700
****** Total Estimated Revenue to be Collected	....	....	340,593,961	385,006,402	....	....	384,890,362
****** Total Revenue Requirement	....	....	339,844,000	384,012,497	....	....	384,012,497
Difference	....	....	749,961	993,905	....	....	877,865

Notes on Table 3

[1] The AM and FM Construction Permit revenues were adjusted, respectively, to set the regulatory fee to an amount no higher than the lowest licensed fee for that class of service.

[2] MDS/MMDS category was renamed Broadband Radio Service (BRS). *See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150–2162 and 2500–2690 MHz Bands,* Report & Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 14165, 14169, paragraph 6 (2004).

[3] The chart at the end of Table 4 lists the submarine cable bearer circuit regulatory fees (common and non-common carrier basis) that resulted from the adoption of *Assessment and Collection of Regulatory Fees for Fiscal Year 2008,* Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6388 (2008) and *Assessment and Collection of Regulatory Fees for Fiscal Year 2008,* Second Report and Order, 24 FCC Rcd 4208 (2009).

[4] The fee amounts listed in the column entitled "Rounded New FY 2016 Regulatory Fee" constitute a weighted average media regulatory fee by class of service. The actual FY 2016 regulatory fees for AM/FM radio stations are listed on a grid located at the end of Table 4.

Table 4—FY 2016 Schedule of Regulatory Fees

[Regulatory fees for the first eight fee categories below are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.]

Fee category	Annual regulatory fee (U.S. $s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	25
Microwave (per license) (47 CFR part 101)	25
Marine (Ship) (per station) (47 CFR part 80)	15
Marine (Coast) (per license) (47 CFR part 80)	40
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	10
PLMRS (Shared Use) (per license) (47 CFR part 90)	10
Aviation (Aircraft) (per station) (47 CFR part 87)	10
Aviation (Ground) (per license) (47 CFR part 87)	20
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90)	.20
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)	.08
Broadband Radio Service (formerly MMDS/MDS) (per license) (47 CFR part 27)	725
Local Multipoint Distribution Service (per call sign) (47 CFR, part 101)	725
AM Radio Construction Permits	620
FM Radio Construction Permits	1,075
Digital TV (47 CFR part 73) VHF and UHF Commercial	
Markets 1–10	60,675
Markets 11–25	45,675
Markets 26–50	30,525
Markets 51–100	15,200
Remaining Markets	5,000
Construction Permits	5,000
Satellite Television Stations (All Markets)	1,750
Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74)	455
CARS (47 CFR part 78)	775
Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV	1.00
Direct Broadcast Service (DBS) (per subscriber) (as defined by section 602(13) of the Act)	.27
Interstate Telecommunication Service Providers (per revenue dollar)	.00371
Toll Free (per toll free subscriber) (47 CFR section 52.101 (f) of the rules)	.13
Earth Stations (47 CFR part 25)	345
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100)	138,475
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	151,950
International Bearer Circuits–Terrestrial/Satellites (per 64KB circuit)	.02
Submarine Cable Landing Licenses Fee (per cable system)	See Table Below

FY 2016 Schedule of Regulatory Fees:

[Table 4 continued]

FY 2016 RADIO STATION REGULATORY FEES

Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C0, C1 & C2
<=25,000	$990	$715	$620	$685	$1,075	$1,250
25,001–75,000	1,475	1,075	925	1,025	1,625	1,850
75,001–150,000	2,200	1,600	1,375	1,525	2,400	2,750
150,001–500,000	3,300	2,375	2,075	2,275	3,600	4,125
500,001–1,200,000	5,500	3,975	3,450	3,800	6,000	6,875
1,200,001–3,000,00	8,250	5,950	5,175	5,700	9,000	10,300
3,000,001–6,000,00	11,000	7,950	6,900	7,600	12,000	13,750
>6,000,000	13,750	9,950	8,625	9,500	15,000	17,175

FY 2016 Schedule of Regulatory Fees

[International Bearer Circuits—Submarine Cable (Table 4 continued)]

Submarine cable systems (capacity as of December 31, 2015)	Fee amount
< 2.5 Gbps	$8,325
2.5 Gbps or greater, but less than 5 Gbps	16,650
5 Gbps or greater, but less than 10 Gbps	33,300
10 Gbps or greater, but less than 20 Gbps	66,600
20 Gbps or greater	133,200

Table 5—Sources of Payment Unit Estimates for FY 2016

In order to calculate individual service fees for FY 2016, we adjusted FY 2015 payment units for each service to more accurately reflect expected FY 2016 payment liabilities. We obtained our updated estimates through a variety of means. For example, we used Commission licensee data bases, actual prior year payment records and industry and trade association projections when available. The databases we consulted include our Universal Licensing System (ULS), International Bureau Filing System (IBFS), Consolidated Database System (CDBS) and Cable Operations and Licensing System (COALS), as well as reports generated within the Commission such as the Wireless Telecommunications Bureau's *Numbering Resource Utilization Forecast.*

We sought verification for these estimates from multiple sources and, in all cases, we compared FY 2016 estimates with actual FY 2015 payment units to ensure that our revised estimates were reasonable. Where appropriate, we adjusted and/or rounded our final estimates to take into consideration the fact that certain variables that impact on the number of payment units cannot yet be estimated with sufficient accuracy. These include an unknown number of waivers and/or exemptions that may occur in FY 2016 and the fact that, in many services, the number of actual licensees or station operators fluctuates from time to time due to economic, technical, or other reasons. When we note, for example, that our estimated FY 2016 payment units are based on FY 2015 actual payment units, it does not necessarily mean that our FY 2016 projection is exactly the same number as in FY 2015. We have either rounded the FY 2016 number or adjusted it slightly to account for these variables.

Fee Category	Sources of Payment Unit Estimates
Land Mobile (All), Microwave, Marine (Ship & Coast), Aviation (Aircraft & Ground), Domestic Public Fixed.	Based on Wireless Telecommunications Bureau (WTB) projections of new applications and renewals taking into consideration existing Commission licensee data bases. Aviation (Aircraft) and Marine (Ship) estimates have been adjusted to take into consideration the licensing of portions of these services on a voluntary basis.
CMRS Cellular/Mobile Services	Based on WTB projection reports, and FY 2015 payment data.
CMRS Messaging Services	Based on WTB reports, and FY 2015 payment data.
AM/FM Radio Stations	Based on CDBS data, adjusted for exemptions, and actual FY 2015 payment units.
Digital TV Stations (Combined VHF/UHF units)	Based on CDBS data, adjusted for exemptions, and actual FY 2015 payment units.
AM/FM/TV Construction Permits	Based on CDBS data, adjusted for exemptions, and actual FY 2015 payment units.
LPTV, Translators and Boosters, Class A Television.	Based on CDBS data, adjusted for exemptions, and actual FY 2015 payment units.
BRS (formerly MDS/MMDS)	Based on WTB reports and actual FY 2015 payment units.
LMDS	Based on WTB reports and actual FY 2015 payment units.
Cable Television Relay Service (CARS) Stations.	Based on data from Media Bureau's COALS database and actual FY 2015 payment units.
Cable Television System Subscribers, Including IPTV Subscribers.	Based on publicly available data sources for estimated subscriber counts and actual FY 2015 payment units.
Interstate Telecommunication Service Providers	Based on FCC Form 499–Q data for the four quarters of calendar year 2015, the Wireline Competition Bureau projected the amount of calendar year 2015 revenue that will be reported on 2016 FCC Form 499–A worksheets in April, 2016.
Earth Stations	Based on International Bureau (IB) licensing data and actual FY 2015 payment units.
Space Stations (GSOs & NGSOs)	Based on IB data reports and actual FY 2015 payment units.
International Bearer Circuits	Based on IB reports and submissions by licensees, adjusted as necessary.
Submarine Cable Licenses	Based on IB license information.

Table 6—Factors, Measurements, and Calculations That Determines Station Signal Contours and Associated Population Coverages

AM Stations

For stations with nondirectional daytime antennas, the theoretical radiation was used at all azimuths. For stations with directional daytime antennas, specific information on each day tower, including field ratio, phase, spacing, and orientation was retrieved, as well as the theoretical pattern root-mean-square of the radiation in all directions in the horizontal plane (RMS) figure (milliVolt per meter (mV/m) @ 1 km) for the antenna system. The standard, or augmented standard if pertinent, horizontal plane radiation pattern was calculated using techniques and methods specified in sections 73.150 and 73.152 of the Commission's rules. Radiation values were calculated for each of 360 radials around the transmitter site. Next, estimated soil conductivity data was retrieved from a database representing the information in FCC Figure R3. Using the calculated horizontal radiation values, and the retrieved soil conductivity data, the distance to the principal community (5 mV/m) contour was predicted for each of the 360 radials. The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2010 block centroids were contained in the polygon. (A block centroid is the center point of a small area containing population as computed by the U.S. Census Bureau.) The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

FM Stations

The greater of the horizontal or vertical effective radiated power (ERP) (kW) and respective height above average terrain (HAAT) (m) combination was used. Where the antenna height above mean sea level (HAMSL) was available, it was used in lieu of the average HAAT figure to calculate specific HAAT figures for each of 360 radials under study. Any available directional pattern information was applied as well, to produce a radial-specific ERP figure. The HAAT and ERP figures were used in conjunction with the Field Strength (50–50) propagation curves specified in 47 CFR 73.313 of the Commission's rules to predict the distance to the principal community (70 dBu (decibel above 1 microVolt per meter) or 3.17 mV/m) contour for each of the 360 radials. The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2010 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

TABLE 7—FY 2015 SCHEDULE OF REGULATORY FEES

[Regulatory fees for the first eight fee categories below are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.]

Fee category	Annual regulatory fee (U.S. $'s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	30
Microwave (per license) (47 CFR part 101)	20
Marine (Ship) (per station) (47 CFR part 80)	15
Marine (Coast) (per license) (47 CFR part 80)	35
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	10
PLMRS (Shared Use) (per license) (47 CFR part 90)	10
Aviation (Aircraft) (per station) (47 CFR part 87)	10
Aviation (Ground) (per license) (47 CFR part 87)	20
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90)	.17
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)	.08
Broadband Radio Service (formerly MMDS/MDS) (per license) (47 CFR part 27)	635
Local Multipoint Distribution Service (per call sign) (47 CFR, part 101)	635
AM Radio Construction Permits	590
FM Radio Construction Permits	750
Digital TV (47 CFR part 73) VHF and UHF Commercial:	
Markets 1–10	46,825
Markets 11–25	43,200
Markets 26–50	27,625
Markets 51–100	16,275
Remaining Markets	4,850
Construction Permits	4,850
Satellite Television Stations (All Markets)	1,575
Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74)	440
CARS (47 CFR part 78)	660
Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV	.96
Direct Broadcast Service (DBS) (per subscriber) (as defined by section 602(13) of the Act)	.12
Interstate Telecommunication Service Providers (per revenue dollar)	.00331
Toll Free (per toll free subscriber) (47 CFR section 52.101 (f) of the rules)	.12
Earth Stations (47 CFR part 25)	310
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100)	119,150
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	132,125
International Bearer Circuits—Terrestrial/Satellites (per 64KB circuit)	.03
Submarine Cable Landing Licenses Fee (per cable system)	See Table Below

FY 2015 SCHEDULE OF REGULATORY FEES

[Table 7 continued]

FY 2015 Radio Station Regulatory Fees

Population served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C0, C1 & C2
<=25,000	$775	$645	$590	$670	$750	$925
25,001–75,000	1,550	1,300	900	1,000	1,500	1,625
75,001–150,000	2,325	1,625	1,200	1,675	2,050	3,000
150,001–500,000	3,475	2,750	1,800	2,025	3,175	3,925
500,001–1,200,000	5,025	4,225	3,000	3,375	5,050	5,775
1,200,001–3,000,00	7,750	6,500	4,500	5,400	8,250	9,250
>3,000,000	9,300	7,800	5,700	6,750	10,500	12,025

FY 2015 SCHEDULE OF REGULATORY FEES

[International bearer circuits—submarine cable (Table 7 continued)]

Submarine cable systems (capacity as of December 31, 2014)	Fee amount
< 2.5 Gbps	$7,175
2.5 Gbps or greater, but less than 5 Gbps	14,350
5 Gbps or greater, but less than 10 Gbps	28,675
10 Gbps or greater, but less than 20 Gbps	57,350

FY 2015 SCHEDULE OF REGULATORY FEES—Continued

[International bearer circuits—submarine cable (Table 7 continued)]

Submarine cable systems (capacity as of December 31, 2014)	Fee amount
20 Gbps or greater	114,700

VII. Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] an Initial Regulatory Flexibility Analysis (IRFA) was included in the *Notice of Proposed Rulemaking.*[2] The Commission sought written public comment on these proposals including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the IRFA.[3]

A. Need for, and Objectives of, the Report and Order

2. In this Report and Order, we conclude the Assessment and Collection of Regulatory Fees for Fiscal Year (FY) 2016 proceeding to collect $384,012,497.00 in regulatory fees for FY 2016, pursuant to section 9 of the Communications Act of 1934, as amended (Communications Act or Act).[4] These regulatory fees will be due on September 27, 2016. Under section 9 of the Communications Act, regulatory fees are mandated by Congress and collected to recover the regulatory costs associated with the Commission's enforcement, policy and rulemaking, user information, and international activities in an amount that can be reasonably expected to equal the amount of the Commission's annual appropriation.[5]

3. This *FY 2016 Report and Order* adopts a regulatory fee schedule that includes the following noteworthy changes from prior years: (1) An increase in regulatory fees across all fee categories to offset the Commission's facilities reduction costs; (2) an updated regulatory fee for Direct Broadcast Satellite (DBS) providers, a subcategory in the cable television and Internet Protocol Television (IPTV) category; and (3) adjustments to the regulatory fees on radio and television broadcasters, based on type and class of service and on the population served.

B. Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA

4. None.

C. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

5. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted.[6] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[7] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[8] A "small business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[9] Nationwide, there are a total of approximately 27.9 million small businesses, according to the SBA.[10]

6. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as "establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry."[11] The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.[12] Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees.[13] Thus, under this size standard, the majority of firms in this industry can be considered small.

7. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.[14] According to Commission data, census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees.[15] The Commission therefore estimates that most providers of local exchange carrier service are small entities that may be affected by the rules adopted.

8. *Incumbent LECs.* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers as

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[1] 5 U.S.C. 603. The RFA, 5 U.S.C. 601–612 has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 847 (1996).

[2] *Assessment and Collection of Regulatory Fees for Fiscal Year 2016,* Notice of Proposed Rulemaking, MD Docket No. 16–166, 81 FR 35680 (2016) (*FY 2016 NPRM).*

[3] 5 U.S.C. 604.

[4] 47 U.S.C. 159.

[5] 47 U.S.C. 159(a).

[6] 5 U.S.C. 603(b)(3).

[7] 5 U.S.C. 601(6).

[8] 5 U.S.C. 601(3) (incorporating by reference the definition of "small-business concern" in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**."

[9] 15 U.S.C. 632.

[10] *See* SBA, Office of Advocacy, "Frequently Asked Questions," *http://www.sba.gov/sites/default/files/FAQ_Sept_2012.pdf.*

[11] *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[12] *See* 13 CFR 120.201, NAICS Code 517110.

[13] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[14] 13 CFR 121.201, NAICS code 517110.

[15] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

defined in paragraph 6 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.[16] According to Commission data, 3,117 firms operated in that year. Of this total, 3,083 operated with fewer than 1,000 employees.[17] Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies adopted. Three hundred and seven (307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers.[18] Of this total, an estimated 1,006 have 1,500 or fewer employees.[19]

9. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS Code category is Wired Telecommunications Carriers, as defined in paragraph 6 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.[20] U.S. Census data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees.[21] Based on this data, the Commission concludes that the majority of Competitive LECS, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers, are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services.[22] Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees.[23] In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees.[24] Also, 72 carriers have reported that they are Other Local Service Providers.[25] Of this total, 70 have 1,500 or fewer employees.[26] Consequently, based on internally researched FCC data, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities.

10. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a definition for Interexchange Carriers. The closest NAICS Code category is Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.[27] U.S. Census data for 2012 indicates that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees.[28] According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.[29] Of this total, an estimated 317 have 1,500 or fewer employees.[30] Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by the rules adopted.

11. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business definition specifically for prepaid calling card providers. The most appropriate NAICS code-based category for defining prepaid calling card providers is Telecommunications Resellers. This industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual networks operators (MVNOs) are included in this industry.[31] Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.[32] U.S. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees.[33] Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities. According to Commission data, 193 carriers have reported that they are engaged in the provision of prepaid calling cards.[34] All 193 carriers have 1,500 or fewer employees.[35] Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by the rules adopted.

12. *Local Resellers.* Neither the Commission nor the SBA has developed a small business size standard specifically for Local Resellers. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[36] Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees.[37] Under this category and the associated small business size standard, the majority of these local resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services.[38] Of this total, an estimated 211 have 1,500 or fewer employees.[39] Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by the rules adopted.

13. *Toll Resellers.* The Commission has not developed a definition for Toll Resellers. The closest NAICS Code Category is Telecommunications Resellers, and the SBA has developed a small business size standard for the category of Telecommunications Resellers.[40] Under that size standard, such a business is small if it has 1,500

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[16] 13 CFR 121.201, NAICS code 517110.

[17] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[18] *See Trends in Telephone Service,* Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (September 2010) (*Trends in Telephone Service*).

[19] *Id.*

[20] 13 CFR 121.201, NAICS code 517110.

[21] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[22] *See Trends in Telephone Service,* at Table 5.3.

[23] *Id.*

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] 13 CFR 121.201, NAICS code 517110.

[28] Includes AM radio, FM radio, television (including low power and Class A), TV/FM translators and boosters, cable and IPTV, DBS, and Cable Television Relay Service (CARS) licenses.

[29] *See Trends in Telephone Service,* at Table 5.3.

[30] *Id.*

[31] *http://www.census.gov/cgi-bin/ssd/naics/naicsrch.*

[32] 13 CFR 121.201, NAICS code 517911.

[33] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[34] *See Trends in Telephone Service,* at Table 5.3.

[35] *Id.*

[36] 13 CFR 121.201, NAICS code 517911.

[37] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[38] *See Trends in Telephone Service,* at Table 5.3.

[39] *Id.*

[40] 13 CFR 121.201, NAICS code 517911.

or fewer employees.[41] Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees.[42] Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services.[43] Of this total, an estimated 857 have 1,500 or fewer employees.[44] Consequently, the Commission estimates that the majority of toll resellers are small entities.

14. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a definition for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS Code category is for Wired Telecommunications Carriers as defined in paragraph 6 of this FRFA. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.[45] Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees.[46] Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small. According to internally developed Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage.[47] Of these, an estimated 279 have 1,500 or fewer employees.[48] Consequently, the Commission estimates that most Other Toll Carriers are small entities.

15. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless Internet access, and wireless video services.[49] The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had fewer than 1,000 employees. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) services.[50] Of this total, an estimated 261 have 1,500 or fewer employees.[51] Thus, using available data, we estimate that the majority of wireless firms can be considered small.

16. *Television Broadcasting.* This Economic Census category "comprises establishments primarily engaged in broadcasting images together with sound. These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public." [52] These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for Television Broadcasting firms: Those having $38.5 million or less in annual receipts.[53] The 2012 Economic Census reports that 751 television broadcasting firms operated during that year. Of that number, 656 had annual receipts of less than $25 million per year. Based on that Census data we conclude that a majority of firms that operate television stations are small. The Commission has estimated the number of licensed commercial television stations to be 1,387.[54] In addition, according to Commission staff review of the BIA Advisory Services, LLC's *Media Access Pro Television Database,* on March 28, 2012, about 950 of an estimated 1,300 commercial television stations (or approximately 73 percent) had revenues of $14 million or less.[55] We therefore estimate that the majority of commercial television broadcasters are small entities.

17. In assessing whether a business concern qualifies as small under the above definition, business (control) affiliations [56] must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, an element of the definition of "small business" is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive to that extent.

18. In addition, the Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 396.[57] These stations are non-profit, and therefore considered to be small entities.[58] There are also 2,528 low power television stations, including Class A stations (LPTV).[59] Given the nature of these services, we will presume that all LPTV licensees qualify as small entities under the above SBA small business size standard.

19. *Radio Stations.* This Economic Census category "comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated

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[41] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[42] *Id.*

[43] *Trends in Telephone Service,* at Table 5.3.

[44] *Id.*

[45] 13 CFR 121.201, NAICS code 517110.

[46] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[47] *Trends in Telephone Service,* at Table 5.3.

[48] *Id.*

[49] NAICS Code 517210. *See http://www.census.gov/cgi-bin/ssd/naics/naiscsrch.*

[50] *Trends in Telephone Service,* at Table 5.3.

[51] *Id.*

[52] U.S. Census Bureau, 2012 NAICS Code Economic Census Definitions, *http://www.census.gov.cgi-bin/sssd/naics/naicsrch.*

[53] 13 CFR 121.201, NAICS code 515120.

[54] *See FCC News Release,* "Broadcast Station Totals as of December 31, 2011," dated January 6, 2012; *http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0106/DOC-311837A1.pdf.*

[55] We recognize that BIA's estimate differs slightly from the FCC total given *supra.*

[56] "[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has to power to control both." 13 CFR 21.103(a)(1).

[57] *See FCC News Release,* "Broadcast Station Totals as of December 31, 2011," dated January 6, 2012; *http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0106/DOC-311837A1.pdf.*

[58] *See generally* 5 U.S.C. 601(4), (6).

[59] *See FCC News Release,* "Broadcast Station Totals as of December 31, 2011," dated January 6, 2012; *http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0106/DOC-311837A1.pdf.*

network, or from external sources." [60] The SBA has established a small business size standard for this category, which is: Such firms having $38.5 million or less in annual receipts.[61] Census data for 2012 show that 2,849 radio station firms operated during that year. Of that number, 2,806 operated with annual receipts of less than $25 million per year.[62] According to Commission staff review of BIA Advisory Services, LLC's *Media Access Pro Radio Database,* on March 28, 2012, about 10,759 (97 percent) of 11,102 commercial radio stations had revenues of $38.5 million or less. Therefore, the majority of such entities are small entities.

20. In assessing whether a business concern qualifies as small under the above size standard, business affiliations must be included.[63] In addition, to be determined to be a "small business," the entity may not be dominant in its field of operation.[64] We note that it is difficult at times to assess these criteria in the context of media entities, and our estimate of small businesses may therefore be over-inclusive.

21.*Cable Television and Other Subscription Programming.* This industry comprises establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature (*e.g.,* limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers.[65] The SBA has established a size standard for this industry of $38.5 million or less. Census data for 2012 shows that there were 367 firms that operated that year. Of this total, 319 operated with annual receipts of less than $25 million.[66] Thus under this size standard, the majority of firms offering cable and other program distribution services can be considered small and may be affected by rules adopted.

22. *Cable Companies and Systems.* The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a "small cable company" is one serving 400,000 or fewer subscribers nationwide.[67] Industry data indicate that there are currently 4,600 active cable systems in the United States.[68] Of this total, all but ten cable operators nationwide are small under the 400,000-subscriber size standard.[69] In addition, under the Commission's rate regulation rules, a "small system" is a cable system serving 15,000 or fewer subscribers.[70] Current Commission records show 4,600 cable systems nationwide.[71] Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records.[72] Thus, under this standard as well, we estimate that most cable systems are small entities.

23. *Cable System Operators (Telecom Act Standard).* The Communications Act also contains a size standard for small cable system operators, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000." [73] There are approximately 52,403,705 cable video subscribers in the United States today.[74] Accordingly, an operator serving fewer than 524,037 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate.[75] Based on available data, we find that all but nine incumbent cable operators are small entities under this size standard.[76] We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million.[77] Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

24. *Direct Broadcast Satellite (DBS) Service.* DBS Service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic dish antenna at the subscriber's location. DBS is now included in SBA's economic census category "Wired Telecommunications Carriers." The Wired Telecommunications Carriers industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution; and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.[78] The SBA determines that a wireline business is small if it has fewer than 1,500 employees.[79] Census data for 2012 indicate that 3,117 wireline companies were operational during that year. Of that number, 3,083 operated with fewer than 1,000 employees.[80] Based on that data, we conclude that the majority of

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[60] *https://www.census.gov.cgi-bin/sssd/naics/naicsrch.*

[61] 13 CFR 121.201, NAICS code 515112.

[62] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ5&prodType=table.*

[63] "Concerns and entities are affiliates of each other when one controls or has the power to control the other, or a third party or parties controls or has the power to control both. It does not matter whether control is exercised, so long as the power to control exists." 13 CFR 121.103(a)(1) (an SBA regulation).

[64] 13 CFR 121.102(b) (an SBA regulation).

[65] *https://www.census.gov.cgi-bin/sssd/naics/naicsrch.*

[66] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US-51SSSZ5&prodType=Table.*

[67] 47 CFR 76.901(e).

[68] August 15, 2015 Report from the Media Bureau based on data contained in the Commission's Cable Operations and Licensing System (COALS). *See www/fcc.gov/coals.*

[69] *See* SNL KAGAN at *www.snl.com/interactiveX/top cableMSOs aspx?period2015Q1&sortcol=subscribersbasic&sortorder=desc.*

[70] 47 CFR 76.901(c).

[71] *See* footnote 2, *supra.*

[72] August 5, 2015 report from the Media Bureau based on its research in COALS. *See www.fcc.gov/coals.*

[73] 47 CFR 76.901(f) and notes ff. 1, 2, and 3.

[74] *See* SNL KAGAN at *www.snl.com/interactivex/MultichannelIndustryBenchmarks.aspx.*

[75] 47 CFR 76.901(f) and notes ff. 1, 2, and 3.

[76] *See* SNL KAGAN at *www.snl.com/interactivex/TopCable MSOs.aspx.*

[77] The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to section 76.901(f) of the Commission's rules. *See* 47 CFR 76.901(f).

[78] *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[79] NAICs CODE 517110; 13 CFR 121.201.

[80] *http://factfinder.census.gov/faces/tableservices.jasf/pages/productview.xhtml?pid+ECN_2012_US.51SSSZ4&prodType=table.*

wireline firms are small under the applicable standard. However, currently only two entities provide DBS service, which requires a great deal of capital for operation: AT&T and DISH Network.[81] AT&T and DISH Network each report annual revenues that are in excess of the threshold for a small business. Accordingly, we must conclude that internally developed FCC data are persuasive that in general DBS service is provided only by large firms.

25. *All Other Telecommunications.* "All Other Telecommunications" is defined as follows: This U.S. industry is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.[82] The SBA has developed a small business size standard for "All Other Telecommunications," which consists of all such firms with gross annual receipts of $32.5 million or less.[83] For this category, census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than $25 million.[84] Thus, a majority of "All Other Telecommunications" firms potentially affected by the rules adopted can be considered small.

26. *RespOrgs.* RespOrgs, *i.e.,* Responsible Organizations, are entities chosen by toll free subscribers to manage and administer the appropriate records in the toll free Service Management System for the toll free subscriber.[85] Although RespOrgs are often wireline carriers, they can also include non-carrier entities. Therefore, in the definition herein of RespOrgs, two categories are presented, *i.e.,* Carrier RespOrgs and Non-Carrier RespOrgs.

27. *Carrier RespOrgs.* Neither the Commission, the U.S. Census, nor the SBA have developed a definition for Carrier RespOrgs. Accordingly, the Commission believes that the closest NAICS Code-based definitional categories for Carrier RespOrgs are Wired Telecommunications Carriers,[86] and Wireless Telecommunications Carriers (except satellite).[87]

28. The U.S. Census Bureau defines Wired Telecommunications Carriers as establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.[88] The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.[89] Census data for 2012 show that there were 3,117 Wired Telecommunications Carrier firms that operated for that entire year. Of that number, 3,083 operated with less than 1,000 employees.[90] Based on that data, we conclude that the majority of Carrier RespOrgs that operated with wireline-based technology are small.

29. The U.S. Census Bureau defines Wireless Telecommunications Carriers (except satellite) as establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves, such as cellular services, paging services, wireless internet access, and wireless video services.[91] The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.[92] Census data for 2012 show that 967 Wireless Telecommunications Carriers operated in that year. Of that number, 955 operated with less than 1,000 employees.[93] Based on that data, we conclude that the majority of Carrier RespOrgs that operated with wireless-based technology are small.

30. *Non-Carrier RespOrgs.* Neither the Commission, the Census, nor the SBA have developed a definition of Non-Carrier RespOrgs. Accordingly, the Commission believes that the closest NAICS Code-based definitional categories for Non-Carrier RespOrgs are "Other Services Related To Advertising"[94] and "Other Management Consulting Services."[95]

31. The U.S. Census defines Other Services Related to Advertising as comprising establishments primarily engaged in providing advertising services (except advertising agency services, public relations agency services, media buying agency services, media representative services, display advertising services, direct mail advertising services, advertising material distribution services, and marketing consulting services?[96] The SBA has established a size standard for this industry as annual receipts of $15 million dollars or less.[97] Census data for 2012 show that 5,804 firms operated in this industry for the entire year. Of that number, 5,249 operated with annual receipts of less than $10 million.[98] Based on that data we conclude that the majority of Non-Carrier RespOrgs who provide TFN-related advertising services are small.

32. The U.S. Census defines Other Management Consulting Services as establishments primarily engaged in providing management consulting services (except administrative and general management consulting; human resources consulting; marketing consulting; or process, physical distribution, and logistics consulting). Establishments providing telecommunications or utilities management consulting services are included in this industry.[99] The SBA has established a size standard for this industry of $15 million dollars or

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[81] *See 15th Annual Video Competition Report,* 28 FCC Rcd at 1057, Section 27.

[82] *http://www.census.gov/cgi-bin/ssssd/naics/naicsrch.*

[83] 13 CFR 121.201; NAICS Code 517919.

[84] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

[85] *See* 47 CFR 52.101(b).

[86] 13 CFR 121.201, NAICS Code 517110.

[87] 13 CFR 121.201, NAICS Code 517210.

[88] *http://www.census,gov/cgi-bin/sssd/naics.naicsrch.*

[89] 13 CFR 120,201, NAICS Code 517110.

[90] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

[91] *http://www.census,gov/cgi-bin/sssd/naics.naicsrch.*

[92] 13 CFR 120.201, NAICS Code 517120.

[93] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

[94] 13 CFR 120.201, NAICS Code 541890.

[95] 13 CFR 120.201, NAICS Code 541618.

[96] *http://www.census,gov/cgi-bin/sssd/naics.naicsrch.*

[97] 13 CFR 120.201, NAICS Code 541890.

[98] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

[99] *http://www.census,gov/cgi-bin/sssd/naics.naicsrch.*

less.[100] Census data for 2012 show that 3,683 firms operated in this industry for that entire year. Of that number, 3,632 operated with less than $10 million in annual receipts.[101] Based on this data, we conclude that a majority of non-carrier RespOrgs who provide TFN-related management consulting services are small.[102]

33. In addition to the data contained in the four (see above) U.S. Census NAICS Code categories that provide definitions of what services and functions the Carrier and Non-Carrier RespOrgs provide, Somos, the trade association that monitors RespOrg activities, compiled data showing that as of July 1, 2016 there were 23 RespOrgs operational in Canada and 436 RespOrgs operational in the United States, for a total of 459 RespOrgs currently registered with Somos.[103]

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

34. This *Report and Order* does not adopt any new reporting, recordkeeping, or other compliance requirements.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

35. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[104]

36. This *Report and Order* does not adopt any new reporting requirements. Therefore no adverse economic impact on small entities will be sustained based on reporting requirements.

37. In keeping with the requirements of the Regulatory Flexibility Act, we have considered certain alternative means of mitigating the effects of fee increases to a particular industry segment. For example, beginning last year, in FY 2015, the Commission increased the *de minimis* threshold from under $10 to $500 (the total of all annual regulatory fees), which will impact many small entities that pay regulatory fees for ITSP, paging, cellular, cable, and Low Power Television/FM Translators. Historically, many of these small entities have been late in making their fee payments to the Commission by the due date. This increase in the *de minimis* threshold to $500 will relieve regulatees both financially and administratively. This *Report and Order* also adopts regulatory fees for the smaller market AM and FM stations at a lower amount than had been proposed. Finally, regulatees may also seek waivers or other relief on the basis of financial hardship. *See* 47 CFR 1.1166.

F. Federal Rules That May Duplicate, Overlap, or Conflict

38. None.

VIII. Ordering Clauses

39. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and (j), 9, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 159, and 303(r), this *Report and Order* IS HEREBY ADOPTED.

40. IT IS FURTHER ORDERED that this *Report and Order* SHALL BE EFFECTIVE September 26, 2016.

41. IT IS FURTHER ORDERED that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Report and Order,* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the U.S. Small Business Administration.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch.

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR, part 1 as follows:

PART 1—PRACTICE AND PROCEDURE

■ 1. The authority citation for part 1 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 157, 225, 303(r), 309, 1403, 1404, 1451, and 1452.

■ 2. Section 1.1152 is revised to read as follows:

§ 1.1152 Schedule of annual regulatory fees for wireless radio services.

Exclusive use services (per license)	Fee amount[1]
1. Land Mobile (Above 470 MHz and 220 MHz Local, Base Station & SMRS) (47 CFR part 90)	
(a) New, Renew/Mod (FCC 601 & 159)	$25.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	25.00
(c) Renewal Only (FCC 601 & 159)	25.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	25.00
220 MHz Nationwide:	
(a) New, Renew/Mod (FCC 601 & 159)	25.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	25.00
(c) Renewal Only (FCC 601 & 159)	25.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	25.00
2. Microwave (47 CFR Pt. 101) (Private)	
(a) New, Renew/Mod (FCC 601 & 159)	25.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	25.00
(c) Renewal Only (FCC 601 & 159)	25.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	25.00
3. Shared Use Services Land Mobile (Frequencies Below 470 MHz—except 220 MHz)	

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[100] 13 CFR 120.201, NAICS CODE 514618.

[101] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

[102] The four NAICS Code-based categories selected above to provide definitions for Carrier and Non-Carrier RespOrgs were selected because as a group they refer generically and comprehensively to all RespOrgs. Therefore, all RespOrgs, including those not identified specifically or individually, must comply with the rules adopted in the Regulatory Fees Report and Order associated with this Final Regulatory Flexibility Analysis.

[103] Email from Jennifer Blanchard of Somos dated July 1, 2016.

[104] 5 U.S.C. 603(c)(1) through (c)(4).

Exclusive use services (per license)	Fee amount [1]
(a) New, Renew/Mod (FCC 601 & 159)	10.00
(b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	10.00
(c) Renewal Only (FCC 601 & 159)	10.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	10.00
Rural Radio (Part 22):	
(a) New, Additional Facility, Major Renew/Mod (Electronic Filing) (FCC 601 & 159)	10.00
(b) Renewal, Minor Renew/Mod (Electronic Filing) (FCC 601 & 159) Marine Coast	10.00
(a) New Renewal/Mod (FCC 601 & 159)	40.00
(b) New, Renewal/Mod (Electronic Filing) (FCC 601 & 159)	40.00
(c) Renewal Only (FCC 601 & 159)	40.00
(d) Renewal Only (Electronic Filing) (FCC 601 & 159)	40.00
Aviation Ground:	
(a) New, Renewal/Mod (FCC 601 & 159)	20.00
(b) New, Renewal/Mod (Electronic Filing) (FCC 601 & 159)	20.00
(c) Renewal Only (FCC 601 & 159)	20.00
(d) Renewal Only (Electronic Only) (FCC 601 & 159)	20.00
Marine Ship	
(a) New, Renewal/Mod (FCC 605 & 159)	15.00
(b) New, Renewal/Mod (Electronic Filing) (FCC 605 & 159)	15.00
(c) Renewal Only (FCC 605 & 159)	15.00
(d) Renewal Only (Electronic Filing) (FCC 605 & 159)	15.00
Aviation Aircraft:	
(a) New, Renew/Mod (FCC 605 & 159)	10.00
(b) New, Renew/Mod (Electronic Filing) (FCC 605 & 159)	10.00
(c) Renewal Only (FCC 605 & 159)	10.00
(d) Renewal Only (Electronic Filing) (FCC 605 & 159)	10.00
4. CMRS Cellular/Mobile Services (per unit) (FCC 159)	[2] .20
5. CMRS Messaging Services (per unit) (FCC 159)	[3] .08
6. Broadband Radio Service (formerly MMDS and MDS)	725
7. Local Multipoint Distribution Service	725

[1] Note that "small fees" are collected in advance for the entire license term. Therefore, the annual fee amount shown in this table that is a small fee (categories 1 through 5) must be multiplied by the 10-year license term to arrive at the total amount of regulatory fees owed. Also, application fees may apply as detailed in section 1.1102 of this chapter.

[2] These are standard fees that are to be paid in accordance with section 1.1157(b) of this chapter.

[3] These are standard fees that are to be paid in accordance with section 1.1157(b) of this chapter.

■ 3. Section 1.1153 is revised to read as follows:

§ 1.1153 Schedule of annual regulatory fees and filing locations for mass media services.

Radio [AM and FM] (47 CFR part 73)	Fee amount
1. *AM Class A:*	
<=25,000 population	$990
25,001–75,000 population	1,475
75,001–150,000 population	2,200
150,001–500,000 population	3,300
500,001–1,200,000 population	5,500
1,200,001–3,000,000 population	8,250
3,000,001–6,000,000 population	11,000
>6,000,000 population	13,750
2. *AM Class B:*	
<=25,000 population	715
25,001–75,000 population	1,075
75,001–150,000 population	1,600
150,001–500,000 population	2,375
500,001–1,200,000 population	3,975
1,200,001–3,000,000 population	5,950
3,000,001–6,000,000 population	7,950
>6,000,000 population	9,950
3. *AM Class C:*	
<=25,000 population	620
25,001–75,000 population	925
75,001–150,000 population	1,375
150,001–500,000 population	2,075
500,001–1,200,000 population	3,450
1,200,001–3,000,000 population	5,175
3,000,001–6,000,000 population	6,900
>6,000,000 population	8,625
4. *AM Class D:*	
<=25,000 population	685
25,001–75,000 population	1,025
75,001–150,000 population	1,525
150,001–500,000 population	2,275
500,001–1,200,000 population	3,800
1,200,001–3,000,000 population	5,700
3,000,001–6,000,000 population	7,600
>6,000,000 population	9,500
5. AM Construction Permit	620
6. *FM Classes A, B1 and C3:*	
<=25,000 population	1,075
25,001–75,000 population	1,625
75,001–150,000 population	2,400
150,001–500,000 population	3,600
500,001–1,200,000 population	6,000
1,200,001–3,000,000 population	9,000
3,000,001–6,000,000 population	12,000
>6,000,000 population	15,000
7. *FM Classes B, C, C0, C1 and C2:*	
<=25,000 population	1,250
25,001–75,000 population	1,850
75,001–150,000 population	2,750
150,001–500,000 population	4,125
500,001–1,200,000 population	6,875
1,200,001–3,000,000 population	10,300
3,000,001–6,000,000 population	13,750
>6,000,000 population	17,175
8. FM Construction Permits	1,075

TV (47 CFR, part 73)	
Digital TV (UHF and VHF Commercial Stations):	
1. Markets 1 thru 10	$60,675
2. Markets 11 thru 25	45,675
3. Markets 26 thru 50	30,525

Radio [AM and FM] (47 CFR part 73)	Fee amount
4. Markets 51 thru 100	15,200
5. Remaining Markets	5,000
6. Construction Permits	5,000
Satellite UHF/VHF Commercial:	
1. All Markets	1,750
Low Power TV, Class A TV, TV/FM Translator, & TV/FM Booster (47 CFR part 74)	455

■ 4. Section 1.1154 is revised to read as follows:

§ 1.1154 Schedule of annual regulatory charges for common carrier services.

Radio facilities	Fee amount
1. Microwave (Domestic Public Fixed) (Electronic Filing) (FCC Form 601 & 159).	$25.00.
Carriers	
1. Interstate Telephone Service Providers (per interstate and international end-user revenues (see FCC Form 499–A).	$.00371.
2. Toll Free Number Fee ..	$.13 per Toll Free Number.

■ 5. Section 1.1155 is revised to read as follows:

§ 1.1155 Schedule of regulatory fees for cable television services.

	Fee amount
1. Cable Television Relay Service.	$775.
2. Cable TV System, Including IPTV (per subscriber).	$1.00.
3. Direct Broadcast Satellite (DBS).	$.27 per subscriber.

■ 6. Section 1.1156 is revised to read as follows:

§ 1.1156 Schedule of regulatory fees for international services.

(a) The following schedule applies for the listed services:

Fee category	Fee amount
Space Stations (Geostationary Orbit).	$138,475.
Space Stations (Non-Geostationary Orbit).	$151,950.
Earth Stations: Transmit/Receive & Transmit only (per authorization or registration).	$345.

(b) *International Terrestrial and Satellite.* (1) Regulatory fees for International Bearer Circuits are to be paid by facilities-based common carriers that have active (used or leased) international bearer circuits as of December 31 of the prior year in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier, which includes active circuits to themselves or to their affiliates. In addition, non-common carrier satellite operators must pay a fee for each circuit sold or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. "Active circuits" for these purposes include backup and redundant circuits. In addition, whether circuits are used specifically for voice or data is not relevant in determining that they are active circuits.

(2) The fee amount, per active 64 KB circuit or equivalent will be determined for each fiscal year.

International terrestrial and satellite (capacity as of December 31, 2015)	Fee amount
Terrestrial Common Carrier Satellite Common Carrier. Satellite Non-Common Carrier.	$0.02 per 64 KB Circuit.

(c) *Submarine cable:* Regulatory fees for submarine cable systems will be paid annually, per cable landing license, for all submarine cable systems operating as of December 31 of the prior year. The fee amount will be determined by the Commission for each fiscal year.

Submarine cable systems (capacity as of Dec. 31, 2015)	Fee amount
<2.5 Gbps	$8,325.
2.5 Gbps or greater, but less than 5 Gbps.	$16,650.
5 Gbps or greater, but less than 10 Gbps.	$33,300.
10 Gbps or greater, but less than 20 Gbps.	$66,600.
20 Gbps or greater	$133,200.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 10–210; FCC 16–101]

Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) adopts rules to convert the National Deaf-Blind Equipment Distribution Program (NDBEDP) from a pilot program to a permanent program. The NDBEDP supports the distribution of communications devices to low-income individuals who are deaf-blind.

DATES: The addition of 47 CFR 64.6201, 64.6203, and 64.6205 of the Commission's rules are effective July 1, 2017. The addition of 47 CFR part 64, subpart GG, consisting of §§ 64.6207, 64.6209, 64.6211, 64.6213, 64.6215, 64.6217, and 64.6219, contains information collection requirements that are not effective until approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date for those sections.

FOR FURTHER INFORMATION CONTACT: Rosaline Crawford, Disability Rights Office, Consumer and Governmental Affairs Bureau, at (202) 418–2075 or email *Rosaline.Crawford@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals,* Report and Order, document FCC 16–101, adopted on August 4, 2016, and released on August 5, 2016, in CG Docket No. 10–210. The full text of document FCC 16–101 will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. Document FCC 16–101 can also be downloaded in Word or Portable Document Format (PDF) at *http://www.fcc.gov/ndbedp.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (844) 432–2275 (videophone), or (202) 418–0432 (TTY).

Final Paperwork Reduction Act of 1995 Analysis

Document FCC 16–101 contains new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public to comment on the information collection requirements contained in document FCC 16–101 as required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, the Commission notes that, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, 44 U.S.C. 3506(c)(4), the Commission previously sought comment on how the Commission might "further reduce the information collection burden for small business concerns with fewer than 25 employees." *See Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals,* Notice of Proposed Rulemaking, published at 80 FR 32885, June 10, 2015 (*NDBEDP 2015 NPRM*).

Synopsis

1. The Twenty-First Century Communications and Video Accessibility Act (CVAA) added section 719 to the Communications Act of 1934, as amended (the Act). Public Law 111–260, 105, 124 Stat. 2751, 2762 (2010); *technical corrections* Public Law 111–265, 124 Stat. 2795 (2010); 47 U.S.C. 620. Section 719 of the Act directs the Commission to promulgate rules that define as eligible for up to $10 million of support annually from the Interstate Telecommunications Relay Service Fund (TRS Fund) those programs approved by the Commission for the distribution of specialized customer premises equipment (SCPE) designed to make telecommunications service, Internet access service, and advanced communications accessible by low-income individuals who are deaf-blind. Since July 2012, the Commission's Consumer and Governmental Affairs Bureau (CGB or Bureau) has implemented the NDBEDP, also known as "iCanConnect," as a pilot program by certifying and overseeing 53 entities, collectively referred to as "certified programs" or "state programs," that distribute equipment in each state, plus the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. *See Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals,* Report and Order, published at 76 FR 26641, May 9, 2011 (*NDBEDP Pilot Program Order*); 47 CFR 64.610 (NDBEDP pilot program rules). Also since 2012, a national outreach coordinator selected by the Bureau has provided extensive outreach to support the distribution efforts of these state programs. In addition, during the pilot program, the Bureau released guidance to assist state programs with how to comply with the Commission's NDBEDP rules. *See, e.g.,* CGB, *NDBEDP Frequently Asked Questions* (*NDBEDP FAQ*); CGB, *Examples of Reimbursable Expenses* (July 2, 2012) (*NDBEDP Expenses*).

2. The Commission released the *NDBEDP 2015 NPRM* seeking comment on specific requirements for the creation of a permanent NDBEDP, including its program structure, eligibility requirements, covered equipment and services, funding allocations, reporting, and other considerations. The Commission also extended the pilot program through June 2017. *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals,* Order, published at 81 FR 36181, June 6, 2016 (*2016 Extension Order*).

3. The rules adopted in document FCC 16–101 are designed to ensure that, going forward, the NDBEDP can efficiently and effectively achieve its goals of enhancing communications access for low-income individuals who are deaf-blind through the distribution of equipment and the provision of support services that are needed for the successful use of the equipment they receive. Through these rules, the Commission recognizes that the needs of each person who is deaf-blind are unique with respect to the severity and type of his or her hearing and vision loss, and that each program can best achieve Congress's goals of brining communications access into the lives of low-income individuals who are deaf-blind. At the same time, the rules contain various measures and safeguards to attain the greatest efficiencies and to prevent this program from becoming subject to fraud, waste or abuse.

Program Structure

4. *Geographic-Based Program Certification.* After careful consideration of the record, the Commission adopts a rule that retains the current structure of the NDBEDP to certify one entity for the administration of the program, distribution of equipment, and provision of related services within each state and territory covered by the NDBEDP. The Commission concludes that a local, state-based structure is most able to provide services specifically designed to address the unique needs of each state's deaf-blind residents, will be easier for consumers to access, and can facilitate coordination with other local and in-state agencies and resources. Therefore, for the permanent NDBEDP, the Commission directs the Bureau to certify one entity for each state and territory to receive funding for the administration of its program, distribution of equipment, and provision of related services to eligible residents.

5. *Expansion to Additional U.S. Territories.* In the *NDBEDP 2015 NPRM,* the Commission proposed that NDBEDP funding be extended to the U.S. territories of American Samoa, Guam, and the Northern Mariana Islands. The Commission noted that, just like the 53 states and territories covered by the pilot program, the residents of each of these U.S. territories are also eligible to make and receive calls through one or more forms of relay services that are supported by the same TRS Fund that supports the NDBEDP. In light of the demonstrated need and record support for this proposal, the Commission extends the NDBEDP to these territories. While the Commission directs the Bureau to certify one entity for each of these territories, a single entity may apply for certification to serve the residents of one, two, or all three of these jurisdictions. The Commission notes that, given the relatively small funding allocations and uniquely small populations of these remote jurisdictions located in the South Pacific region, certifying the same entity to serve all three jurisdictions may enable the consolidation of administrative functions, as well as coordination and conservation of resources.

6. *Permanent Program Certification.* In the *NDBEDP 2015 NPRM,* the Commission proposed that, during the 30-day period following the effective date of the final rules, each entity certified under the pilot program be required to reapply for certification or notify the Commission of its intent not to participate in the permanent NDBEDP, and to permit other entities to apply for certification.

7. The Commission believes that expanding the pool of applicants for NDBEDP certification will enhance the quality of entities selected and will help address concerns raised by those commenters who wish to give more in-state entities an opportunity to apply for

certification. While the Commission acknowledges that the experience gained by entities certified under the pilot program may weigh in favor of their recertification, it is not persuaded that experience is the only factor that should be considered when determining appropriate management for each of the states under the permanent NDBEDP. Rather, given that the next certification period will be for five years, and that the Commission now amends some of the rules that will apply to these programs, it believes it is necessary and appropriate to open up the application process to both new and currently certified entities.

8. The Commission further concludes that its adoption of new rules for the permanent program necessitates receiving new applications from each currently certified entity interested in continuing to operate under the NDBEDP. Accordingly, the Commission will require each currently certified entity seeking to continue providing equipment and services to submit a new application with sufficient detail to demonstrate its continued ability to meet all of the Commission's certification criteria, and to affirm its commitment to comply with all Commission rules governing the permanent program. An entity seeking certification for the first time also must submit an application with sufficient detail to demonstrate its ability to meet all of the Commission's certification criteria and a commitment to comply with all Commission requirements governing the NDBEDP. An applicant may demonstrate its ability to meet all criteria for certification either directly or in coordination with other programs or entities. In reviewing each application, the Commission will consider, among other things, the extent to which a currently certified entity has effectively implemented the program and achieved compliance with the Commission's rules. The Commission believes that considerations of equity and fairness require it to adopt this approach, as it will allow the Commission to compare and contrast the qualifications of multiple applicants based on the Commission's current selection criteria and NDBEDP requirements.

9. To ensure sufficient time is provided for the application process, the Commission requires both new and incumbent entities seeking certification under the permanent NDBEDP to apply for certification within 60 days after the effective date of the certification rules adopted in this proceeding. A 60-day application period also is consistent with the period used for the NDBEDP pilot program. In addition, the Commission requires any entity certified under the pilot program that does not wish to participate in the permanent NDBEDP to notify the Commission of such intent within 60 days after the effective date of the certification rules adopted by document FCC 16–101.

10. The Commission directs the Bureau to announce the timing of this 60-day period by public notice. The Commission also directs the Bureau to announce, by public notice, the identity of all applicants who request certification for each state. This announcement will put existing certified programs on notice of competing applications, as well as identify those jurisdictions, if any, where no entity has applied for certification under the permanent program. The Bureau may extend the application period for those jurisdictions where no entity has applied for initial certification under the permanent NDBEDP during the 60-day period. The Commission further directs the Bureau to take appropriate steps to minimize any possible disruption of service by providing as much advance notice as possible about its selection of the entities certified under the permanent NDBEDP.

11. *Certification Selection Criteria.* The Commission will continue to use the certification criteria established for the pilot program in the permanent NDBEDP. Based on the Commission's experience with the pilot program, it believes that the expertise and experience these criteria require have been effective. As further detailed below, the Commission declines to establish minimum standards for program personnel, as the Commission believes that its certification criteria and other program standards, including new requirements, will be sufficient to ensure that certified programs are effectively and efficiently managed and able to satisfy the program's goals.

12. *Program Personnel Requirements.* Deaf-blind individuals are diverse with respect to their modes of communication, which can include, but are not limited to, American Sign Language, spoken English, and Braille. This population also uses a wide variety of communication technologies, including, but not limited to, refreshable Braille displays, print magnifiers, and screen readers. Given this diversity, some commenters request that minimum linguistic and other competency and training requirements be added to the Commission's certification criteria, to ensure that certified program personnel are able to meet the needs of the full spectrum of people who are deaf-blind. The Commission concludes, however, that the record does not support establishing such additional requirements for program personnel at this time because the existing criteria sufficiently serves program participants. As the record reflects, there is already a shortage of personnel who are sufficiently trained to work with people who are deaf-blind in certain parts of the country, and establishing additional, more restrictive criteria could exacerbate this issue. To the extent that effective communication for a particular individual cannot be met by in-house program personnel, certified programs may supplement such personnel by acquiring, as needed, qualified interpreter services and other accommodations. Accordingly, rather than adopt new program personnel criteria in the permanent NDBEDP, the Commission will continue permitting applicants for certification to demonstrate "[e]xpertise in the field of deaf-blindness," 47 CFR 64.610(b)(3)(i), and "[t]he ability to communicate effectively with people who are deaf-blind," 47 CFR 64.610(b)(3)(ii), in a variety of ways to serve the full spectrum of individuals who are deaf-blind.

13. *Administrative and Financial Management Experience.* The Commission adds administrative and financial management experience to the certification criteria because it expects it will help to ensure that applicants have the necessary skills and resources to effectively operate a state's NDBEDP certified program, which in turn, will reduce the number of programs that relinquish their certifications. For example, applicants should have experience and expertise in managing programmatic funds, recordkeeping, and generally accepted accounting principles. The Commission agrees that applicants for certification should be required to demonstrate that they have access to financial expertise that allows for both the necessary cash flow and the administrative coordination to support the equipment purchase/control/inventory processes, the reimbursement process, and the annual audit, in addition to administrative expertise.

14. *Improper Incentives.* Every aspect of the administration and operation of the NDBEDP must be conducted in a manner that promotes the integrity of the TRS Fund, and instils the highest public trust and confidence in the NDBEDP, the TRS Fund, and the Commission. To that end, each certified program, including its directors, officers, employees, contractors, subcontractors, consultants, agents, and all other representatives are directed to

avoid any organizational or personal conflicts of interest or the appearance of a conflict of interest in all aspects of their administration and operation of the NDBEDP. The Commission adopts its proposal to require each entity seeking certification to identify and disclose to the Commission any relationship, arrangement, or agreement that potentially or actually constitutes a conflict of interest, but modifies it to require such applicants to identify and report all such potential or actual conflicts stemming from relationships, arrangements, and agreements with providers of related services, such as assessments and training, as well as equipment manufacturers. Such disclosures should be made in an entity's application for certification, including during the pendency of the application. Applicants learning of a potential or actual conflict while their applications are pending must disclose such conflicts immediately upon learning of such conflict, to prevent delays in the Commission's certification review. The Commission further clarifies that when an applicant for certification reports such an arrangement, it must also indicate the steps it will take to eliminate such an actual or potential conflict or to minimize the associated risks. If necessary, the Bureau or Commission may make its own determination as to whether the conflict requires disqualification of the entity to manage a state program or whether the entity should be required to take certain steps to eliminate the actual or potential conflict or to minimize the associated risks.

15. *Geographic Eligibility.* During the pilot program, the Bureau selected entities to participate in the NDBEDP that are located both within and outside of the states that they serve. Currently, of the 53 certified programs, 33 are administered by entities located within the states they serve and 20 are administered by entities located outside those states. The Commission will maintain this flexible approach, which the record supports, for the permanent NDBEDP. The Commission agrees with commenters that certifying an out-of-state entity, which can then work with in-state partners to provide services, functions well in those states without sufficient resources of their own. While the Commission is not persuaded of the need to give preference or automatic priority to in-state entities at this time, it will consider the benefits that a local entity can bring to its own state's residents in making its certification selections, especially when weighing the merits of equally qualified applicants.

16. *Non-substantive Rule Change.* In the *NDBEDP 2015 NPRM,* the Commission proposed a non-substantial edit that would insert the words "training consumers on" in certification criterion (v). 47 CFR 64.610(b)(3)(v). The Commission adopts this change, so that the new clause reads: "Experience in training consumers on how to use Equipment and how to set up Equipment for its effective use."

17. *Duration of Certification.* In the *NDBEDP 2015 NPRM,* the Commission proposed that NDBEDP programs be certified for a period of five years. The Commission believes that limiting the duration of an entity's certification provides a natural opportunity to review the entity's performance under the program and to verify that it is still qualified should it seek renewal. The Commission is also persuaded that adopting a shorter certification period would be burdensome and possibly disruptive to program participants. Therefore, the Commission adopts a five-year certification period for each state program, to start upon the effective date of the permanent NDBEDP. Such period will terminate five years after that starting date, and certification reviews and selections will occur every five years thereafter. This process has been effective for the TRS program, and the Commission expects that it will provide similar efficiencies for the NDBEDP.

18. In the event that an entity selected at the start of a five-year term relinquishes its certification or its certification is suspended or revoked before completing its term, the Commission will permit the successor entity to complete, but not exceed, the five-year term initiated by its predecessor. The Commission notes that during the NDBEDP pilot program, certifications granted by the Bureau initially and to successor entities have varied in their duration, but they all have had a common end date—the end of the pilot program. The Commission believes that retaining a common end date in the permanent NDBEDP will facilitate the Commission's administration and oversight of the program, and help to provide certainty to the states and territories participating in this program. The Bureau may announce selections for the new certification period on a rolling basis as these are processed, but the full five-year certification period will end at the appointed time every five years.

19. *Certification Renewals.* In the *NDBEDP 2015 NPRM,* the Commission proposed that one year prior to the expiration of each five-year certification period, each new applicant or each incumbent that has been certified to operate a state program intending to stay in the NDBEDP be required to apply for or request renewal of its certification. As the Commission concluded with respect to applications for initial certification under the permanent NDBEDP, it believes that expanding the pool of applicants during the certification renewal process beyond the incumbent entities will provide a fresh opportunity to enhance the quality of state programs. The Commission also believes that a one-year period will provide sufficient time for the renewal process, based on its experience with state renewals under the TRS program. For these reasons, the Commission adopts its proposal. The Commission further directs the Bureau to announce, by public notice, the identity of all applicants who request such certification. As with initial applications, this announcement will put existing certified programs on notice of competing applications, as well as identifying those jurisdictions, if any, where no entity has applied for a renewal or as a new entrant. The Bureau may extend the application period for those jurisdictions where no qualified entity has applied for renewal or as a new entrant. The Commission further directs the Bureau to take appropriate steps to minimize any possible disruption of service by providing as much advance notice as possible about its selection of the entities certified under the permanent NDBEDP.

20. *Prohibition on Financial Arrangements or Incentives.* The Commission will continue to prohibit certified programs from entering into any financial relationship, arrangement, or agreement that creates improper incentives to purchase particular equipment. In addition, the obligation imposed on applicants for certification to disclose any actual or potential conflicts of interest with equipment manufacturers or vendors, as well as the steps the entity will take to eliminate such actual or potential conflict or to minimize the associated risks, will carry forward to entities once they have received certification under the permanent NDBEDP. The Commission requires such disclosure to be made to the Commission within 30 days after the entity learns or should have learned of such actual or potential conflict of interest. The Commission may suspend or revoke an NDBEDP certification or may require a certified entity, as a condition of continued certification, to take additional steps to eliminate, or to minimize the risks associated with, an

actual or potential conflict of interest, if relationships, arrangements, or agreements affecting the entity are likely to impede its objectivity in the distribution of equipment or its ability to comply with NDBEDP requirements. This requirement will ensure that the Commission is informed of and can address expeditiously and appropriately any conflicts that come into being or are discovered after certification is granted.

21. *Obligation to Report Substantive Changes.* In the *NDBEDP 2015 NPRM,* the Commission proposed to require each state program, once certified, to report to the Commission any substantive change within 60 days of when such change occurs. Substantive changes include those that might bear on the qualifications of the entity to meet the Commission's criteria for certification, such as changes in a program's ability to distribute equipment across its state or significant changes in its staff and facilities. In light of commenter support for this proposal and because the Commission believes that this requirement can help to ensure that programs continue to meet its criteria for certification when substantive changes occur, the Commission adopts this requirement, as modified for clarity, for a certified program to "notify the Commission within 60 days of any substantive change that bears directly on its ability to meet the qualifications necessary for certification."

22. *Relinquishing Program Certification.* In the *NDBEDP 2015 NPRM,* the Commission proposed to require outgoing entities to provide written notice to the Commission at least 90 days in advance of their intent to relinquish their certifications. Given commenters support for this proposal, and to minimize the risk of a lapse in service to deaf-blind individuals that might result during any future transitions from an outgoing entity to a successor entity, the Commission adopts this requirement for the permanent NDBEDP. The Commission further requires that any entity seeking to relinquish its certification include in such notice its reason for exiting the program, including its proposed departure date. The Commission believes that receiving information about the reasons for exiting the program will help inform the Commission on ways to improve the administration of the NDBEDP. Finally, the Commission requires that such notice be filed in the docket to this proceeding, so that it becomes public, and that a written copy be provided electronically to the NDBEDP Administrator and the TRS Fund Administrator.

23. Upon receiving notice of an entity's plans to relinquish certification during the NDBEDP pilot program, the Bureau has provided a 15-day period during which it has invited applications from new entities interested in replacing the outgoing entity. Although the 15-day deadline was established to expedite replacement and ensure that all interested parties have an adequate opportunity to apply for certification, the Commission directs the Bureau to provide a minimum of 30 days for the receipt of such applications. The Commission believes that a 30-day period is reasonable, especially given its adoption of a 90-day notice requirement for any entity intending to relinquish its certification.

24. *Suspension or Revocation of Certification.* Under the pilot program rules, the Commission may suspend or revoke a certification if it determines that such certification is no longer warranted after notice and opportunity for hearing. To ensure that the Commission can act expeditiously and effectively to replace a certified entity should that become necessary, the Commission retains the authority to suspend or revoke an entity's certification when it determines that an entity is no longer qualified for certification. Reasons for suspension or revocation may include, but are not limited to, failure to comply with the Commission's rules and policies, failure to take such actions as are necessary to fulfill the objectives of the program to provide access to covered services by low-income individuals who are deaf-blind (including necessary assessments, equipment distribution, and training), failure to accurately report program expenses, distribution of equipment to individuals who do not meet the program eligibility requirements, fraudulent or abusive practices, and misrepresentation or lack of candor in statements to the Commission.

25. The Commission amends the rule, however, to provide additional clarification regarding the procedure for making a determination of suspension or revocation. First, in order to initiate the suspension or revocation of an entity's certification, the Commission must provide notice to the certified entity, which shall contain the reasons for the proposed suspension or revocation of certification and the applicable suspension or revocation procedures. The Commission will provide the certified entity 30 days to present written arguments and any relevant documentation to the Commission as to why suspension or revocation of certification is not warranted. The Commission will then review such arguments and documentation and make a determination on the merits as to whether to suspend or revoke the entity's certification, which shall include the dates by which such certification shall be suspended or terminated, as well as any conditions that may accompany a suspension. Failure of the notified entity to respond within the 30 days provided will result in automatic suspension or revocation, whichever is applicable, unless such entity seeks a waiver or extension of this period in a timely fashion, *i.e.,* prior to the expiration of the 30-day period.

26. Action to suspend or revoke an entity's certification may be taken either by the Commission, or the Bureau, on delegated authority. In either case, the action will be subject to the rules normally applicable to reconsideration or review of actions taken by a bureau on delegated authority or by the full Commission. *See* 47 CFR 1.101 through 1.117. A suspension of certification will remain in effect until the expiration date, if any, or until the fulfillment of conditions stated in a suspension decision. A revocation will be effective for the remaining portion of the current certification period, but will not preclude an entity from applying for certification for the next five-year period unless so stated in the revocation decision.

27. These procedures are similar in some respects to those for suspension and debarment of an individual or entity receiving Universal Service Fund (USF) support. *See* 47 CFR 54.8. Unlike the USF suspension and debarment procedures, however, the procedures the Commission adopts for the NDBEDP do not contemplate that participation in the NDBEDP will automatically be suspended at the beginning of the suspension or revocation process. *See* 47 CFR 54.8(e)(1). Because an immediate suspension of an entity certified for the NDBEDP could unnecessarily interrupt the provision of equipment or related services to applicants who may have no alternative source of assistance, the determination of whether to immediately suspend an entity's participation pending completion of suspension or revocation proceedings will be made on a case-by-case basis, considering the severity of the alleged rule violations and other relevant factors. Rather, to minimize disruption, the Commission retains the pilot program provision allowing the Commission or the Bureau to take appropriate and necessary steps to ensure continuity of service for

equipment applicants and recipients in the affected state. The Commission believes that these suspension and revocation procedures will satisfy due process requirements by providing the affected program with an opportunity to present objections, arguments, and documentation, will maintain some continuity of service for the affected consumers, and will ensure that the Commission can act relatively quickly to resume the effective provision of equipment and related service to consumers.

28. *Obligations of Outgoing Entities—Compliance with NDBEDP Requirements.* In the *NDBEDP 2015 NPRM,* the Commission proposed to require entities that relinquish their certifications to comply with NDBEDP requirements needed for the ongoing functioning of the program that they are exiting, including the submission of final reimbursement claims and six-month reports. Because the Commission believes this requirement is necessary to maintain program integrity, it adopts this requirement for all outgoing entities, regardless of the reason for such entity's departure. Specifically, this obligation will apply to entities that notify the Commission of their intent not to participate under the permanent NDBEDP, reapply but are not selected for the permanent NDBEDP, do not have their certifications under the permanent NDBEDP renewed, relinquish their certifications in the middle of their term, or have their certifications revoked by the Commission. The Commission amends its rules to incorporate this requirement. The NDBEDP Administrator may allocate funds or reallocate unused funds, if necessary and available, to reimburse an outgoing entity's reasonable administrative costs to comply with these NDBEDP requirements, rather than reimbursing those costs from funds allocated or assigned to the successor entity.

29. *Obligations of Outgoing Entities—Transfer of Data and Inventory.* In the *NDBEDP 2015 NPRM,* to minimize the impact of transitions on consumers, the Commission proposed that a certified entity that relinquishes its certification prior to completion of its term or does not seek recertification at the end of its five-year term be required to transfer NDBEDP-purchased equipment, information, files, and other data to its successor within 30 days after the effective date of the successor entity's certification. Because the Commission believes this mandate will help to ensure a smooth transition to the successor entity and reduce any potential for a lapse in service, it adopts this requirement for all outgoing entities, regardless of the reason for such entity's departure. Specifically, an outgoing certified program shall transfer to the newly-certified state program, within 30 days after the effective date of the newly-certified state program's certification, all consumer data, records, and information for the previous five years associated with the distribution of equipment and provision of related services by the outgoing certified program. In the event of a delay in the selection of a successor state program that may result in the lapse of a state program, the outgoing certified program would be required to effect such transfer after the outgoing certified program's tenure has ended. In addition, the Commission requires the transfer of all NDBEDP-purchased equipment and materials that remain in the outgoing entity's inventory (*e.g.,* equipment purchased for distribution to consumers, for assessment and training, to be loaned to consumers during periods of equipment repair, or for any other NDBEDP purpose, but not equipment that has been distributed to individuals), along with an inventory list of all equipment and other data, records, and information pertaining to this inventory. The outgoing entity shall also report to the NDBEDP Administrator that such equipment and records have been transferred to the new entity in accordance with these requirements, after which the NDBEDP Administrator shall inform the TRS Fund Administrator that such transfer has taken place. The TRS Fund Administrator shall not make final payment to the outgoing entity until the outgoing entity has satisfied all of the requirements discussed herein. As discussed further below, the Commission further requires each certified entity—as a measure of privacy—to provide to consumers who apply for equipment a notification regarding the transfer of such data, records, and information. Specifically, each entity must inform its applicants that their personally identifiable information (PII) will be transferred to a successor in the event that the state's program is transferred to a different certified entity.

30. *Obligations of Outgoing Entities—Notification to Consumers.* During the pilot program, when a state program has voluntarily relinquished its certification, the Bureau has released a public notice to invite applications for replacements, and then a second public notice to announce the successor entity. In the *NDBEDP 2015 NPRM,* the Commission sought comment on how best to ensure that consumers are informed when the entity certified to operate their state's NDBEDP program changes. Given the general agreement among commenters, the Commission adopts a rule requiring each outgoing certified program, regardless of the reason for the outgoing certified program's departure, to provide notification about the newly-certified state program to state residents who are either in the process of obtaining equipment or related services, or have received equipment during the previous three-year period. Such notice shall be given within 30 days of the effective date of the newly-certified state program's certification. In the event of a delay in the selection of a successor state program that may result in the lapse of a state program, the outgoing certified program may be required to provide such notification after the outgoing certified program's tenure has ended. The Commission concludes that this obligation needs to rest with the outgoing entity because it is this entity with whom consumers will have had prior contact. Such notifications must be conveyed to consumers in accessible formats (*e.g.,* by email, in large print format mailed to the consumer's last known mailing address, by phone call, text message, or in-person, as necessary to ensure effective communication). The outgoing entity shall further report to the NDBEDP Administrator that consumers have been notified in an accessible format. The TRS Fund Administrator shall not make final payment to the outgoing entity until the outgoing entity has satisfied this requirement. In the event that the outgoing entity fails to provide such notice within the 30-day period, the Commission shall require the incoming entity to provide such notification to consumers within 30 days of when the incoming entity receives the consumer records from the outgoing entity.

31. *Implementation of the Permanent NDBEDP and Termination of the Pilot Program.* Because adoption of the permanent NDBEDP rules involves new information collection requirements that are subject to approval by OMB under the PRA, the rules that are subject to the PRA will become effective on the date specified in a notice published in the **Federal Register** announcing OMB approval. At that time, the Bureau will announce by public notice the timing of the 60-day period for new and incumbent entities to apply for certification to participate in the permanent NDBEDP. Certifications to participate in the permanent NDBEDP

will not become effective before July 1, 2017.

32. Section 64.610(k) of the Commission's rules provides for expiration of the NDBEDP pilot program rules at the termination of the pilot program. 47 CFR 64.610(k). The Commission clarifies that the pilot program will not terminate until after all reports have been submitted, all payments and adjustments have been made, all wind-down activities have been completed, and no issues with the regard to the NDBEDP pilot program remain pending. Thus, the rules the Commission adopts in document FCC 16–101 will apply to the permanent NDBEDP only and not to the pilot program.

Consumer Eligibility

33. Section 719 of the Act requires the Commission to limit participation in the NDBEDP to individuals who are deaf-blind—as this term is defined by the Helen Keller National Center Act (HKNC Act)—*and* low income. 47 U.S.C. 620(a), (b). In this part, the Commission (1) establishes criteria to determine eligibility as an individual who is "deaf-blind" under the HKNC Act; (2) adopts rules for verifying eligibility under the definition of "deaf-blind" based on a professional's attestation or existing documentation; (3) sets low-income eligibility to not exceed 400% of the Federal Poverty Guidelines (FPG); (4) provides guidance on the calculation of income for determining low-income eligibility; (5) adopts rules for verifying low-income eligibility based on participation in other federal programs with income threshold requirements at or below 400% of the FPG or by other means for applicants who are not enrolled in a qualifying program; and (6) addresses other eligibility criteria as discussed below.

34. *Definition of Individuals who are Deaf-Blind.* The HKNC Act defines an individual who is "deaf-blind" as any individual:

> (A)(i) who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or a field defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both these conditions; (ii) who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition; and (iii) for whom the combination of impairments described in clauses (i) and (ii) cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation;
>
> (B) who despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined through functional and performance assessment to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives; or
>
> (C) meets such other requirements as the Secretary [of Education] may prescribe by regulation.

29 U.S.C. 1905(2). In the *NDBEDP Pilot Program Order,* the Commission interpreted the HKNC Act definitions of "deaf-blind" to allow consideration of an applicant's functional abilities to use telecommunications, Internet access, and advanced communications services in various environments. The Commission believes that this interpretation can best achieve Congress's overall goal of ensuring the accessibility of communications technologies for the deaf-blind population, and therefore retains it for purposes of defining who is eligible to receive equipment and related services under the permanent NDBEDP.

35. The HKNC Act sets forth three independent definitions that can be used to determine whether a person is "deaf-blind." The first definition contains three prongs that must be satisfied. 29 U.S.C. 1905(2)(A). The first of these requires an assessment of the individual's vision, and provides clear, measurable standards for loss of visual acuity, to which the Commission is bound to apply. 29 U.S.C. 1905(2)(A)(i). The first prong also includes a provision for a progressive visual loss having a prognosis leading to one or both of the vision standards described. 29 U.S.C. 1905(2)(A)(i). The second prong asks whether the individual has a hearing loss so severe "that most speech cannot be understood with optimum amplification." 29 U.S.C. 1905(2)(A)(ii). Under the NDBEDP pilot program, the Commission has looked to this prong to allow consideration of the extent to which the individual can perceive speech over the telephone. The third prong asks whether the individual's combined vision and hearing losses "cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation." 29 U.S.C. 1905(2)(A)(iii). During the pilot, the Commission has construed this prong as well to permit consideration of communications-related activities, which are necessary for having independence in daily activities.

36. The second definition contained in the HKNC Act applies to individuals for whom measurements of hearing and vision loss may be impeded due to cognitive or behavioral constraints. For these individuals, a determination of deaf-blindness may be achieved through "functional and performance assessment" that shows the individual "to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives." 29 U.S.C. 1905(2)(B). The third definition is open-ended, as it permits an individual to be classified as someone who is deaf-blind if such individual meets other requirements prescribed by the Secretary of Education by regulation. 29 U.S.C. 1905(2)(C).

37. The Commission retains for the permanent NDBEDP the definition of "deaf-blind" that has been applied in the NDBEDP pilot program. The Commission notes that this definition incorporates the first two definitional standards into the Commission's rules, but not the third, which permits the Secretary of Education to prescribe other requirements by regulation, because the Commission cannot predict whether such regulations would be appropriate for application to the NDBEDP. The Commission concludes that it has the authority to permit eligibility determinations under the NDBEDP to consider an applicant's functional abilities to use telecommunications, Internet access, and advanced communications services in various environments because it continues to believe that consideration of these abilities is in keeping with Congress's overall goal of ensuring access to such technologies by the full range of deaf-blind individuals for whom the program is intended.

38. *Verification that an Individual is Deaf-Blind.* The NDBEDP pilot program rules require individuals seeking equipment under the NDBEDP to provide verification from a professional (*e.g.,* community-based service provider, vision or hearing related professional, vocational rehabilitation counselor, educator, and medical or health professional) who has direct knowledge of that individual's disability to attest that such applicant is deaf-blind, as this term is defined in the Commission's rules. Professionals must make such attestations either to the best of their knowledge or under penalty of perjury. Such professionals may also include, in the attestation, information about the individual's functional abilities to use

telecommunications, Internet access, and advanced communications services in various settings. The NDBEDP pilot program rules also specify that the professional's attestation must include the attester's name, title, and contact information, including address, phone number, and email address. Alternatively, certified programs may verify an applicant's disability by accepting documentation already in the applicant's possession, such as individualized education program documents and Social Security determination letters.

39. The Commission will continue to require NDBEDP applicants to provide verification of their disability either by obtaining an attestation from a professional with direct knowledge of their deaf-blindness or by submitting supporting documentation already in the applicant's possession. The Commission further adopts its proposal for each professional to provide the basis for his or her attestation that an individual is deaf-blind, noting that the provision of this information will assist programs in substantiating the deaf-blind individual's equipment needs. So that the program may contact the professional if necessary, the Commission also adopts its proposal to require the attestation to include the professional's *full* name, title, and contact information, including *business name,* address, phone number, and email address.

40. The Commission will not require each certified program to re-verify the disability eligibility of an individual who previously has been served by a program each time the recipient applies for new equipment, unless the program has reason to believe that the equipment recipient no longer has a disability sufficient to allow continued eligibility for the NDBEDP. The Commission noted that it received no comments from medical experts or other parties suggesting that subsequent disability verifications are necessary to prove a person's ongoing disability after an initial determination of such eligibility. Rather, commenters generally agree that if an individual's disability changes over time, it is far more likely to worsen rather than improve. At the same time, commenters confirm the Commission's conclusion in the *NDBEDP Pilot Program Order* that individuals who are deaf-blind are likely to face significant logistical challenges, including the very types of communication barriers the NDBEDP is itself designed to eliminate, in their endeavors to arrange for appointments and travel to acquire verification of their disability. The Commission concludes that the benefits of imposing such a requirement on all deaf-blind individuals do not outweigh the resulting burdens that would be imposed on such persons.

41. The Commission's rejection of a blanket re-verification rule for all returning applicants, however, does not preclude a program from assessing, on an individual basis, the extent to which a returning applicant continues to qualify for equipment and related services, where the program has reason to believe that the visual acuity and hearing of such individual has improved sufficiently to disqualify such individual. In such instances, a certified program shall require such individual to provide an updated verification of the individual's disability status to determine the applicant's continued eligibility before providing the applicant with additional equipment or services. In addition, given record evidence that vision and hearing are likely to worsen over time, the Commission will permit any certified program to require updated information about an individual's disabilities when it deems this to be necessary to assess whether to provide the individual with different equipment or related services. This will permit certified programs to effectively respond to changes in the type and severity of an individual's disability.

42. *Income Eligibility.* To participate in the NDBEDP, the deaf-blind applicant must be "low income." 47 U.S.C. 620(a). The NDBEDP pilot program rules define low income as income that does not exceed 400% of the FPG. In the *NDBEDP Pilot Program Order,* the Commission selected this threshold after taking into consideration both the unusually high medical and related costs commonly associated with being deaf-blind (*e.g.,* personal assistants, medical care, and independent living costs), and the very high costs of some SCPE used by this population.

43. The Commission concludes that the record supports the continued application of 400% of the FPG as the income ceiling for the permanent NDBEDP, and accordingly it retains this threshold. As it did during the pilot program, the Commission will continue to use the contiguous-states-and-DC guidelines for the U.S. Territories that participate in the NDBEDP.

44. The Commission received little comment in response to its inquiries about the relevance of the income threshold for determining eligibility under the Commission's Lifeline program and the median U.S. household income to the NDBEDP income eligibility determination. The Commission's own analysis, however, leads it to conclude that the considerations at issue for the NDBEDP are very different from those attendant to the income measures for programs such as Lifeline. Unlike individuals in the general population who can purchase off-the-shelf telephone devices at a range of prices, people who are deaf-blind often must purchase equipment that is very expensive, sometimes costing thousands of dollars. For example, during the pilot program, the average cost of NDBEDP equipment distributed to consumers was $2,632 in 2013–2014 and $2,285 in 2014–2015, and some consumers received equipment costing over $12,000 in 2013–2014 and over $10,000 in 2014–2015. In addition, as explained in the *NDBEDP Pilot Program Order,* the unusually high out-of-pocket medical and related costs incurred by people in the deaf-blind community puts them at risk of having to "choose between paying for medical treatment and obtaining the equipment that they need to be able to communicate." Thus, an analogy to the Lifeline program that largely serves the general population is inapposite to the NDBEDP. For the same reason, the Commission concludes that it is not appropriate to compare the median U.S. household income with the threshold that it is setting for NDBEDP eligibility, given that the generally high expenses incurred by deaf-blind individuals keeps their disposable incomes from being similarly situated to the disposable incomes available to average U.S. households. The Commission reiterates its conclusion, made in the *NDBEDP Pilot Program Order,* that "[i]n order to give this program the meaning intended by Congress—'to ensure that individuals with disabilities are able to utilize fully the essential advanced technologies that have developed since the passage of the ADA and subsequent statutes addressing communications accessibility'—[the Commission] must adopt an income threshold that takes into account these unusually high medical and disability-related expenses, which significantly lower one's disposable income." Further, the Commission notes that the hurdles of finding employment are far greater for a person who is deaf-blind than they are for members of the general public. It would defeat the very purposes of the NDBEDP to promote the independence and productivity of this population were the Commission to force these individuals to lose their program support as soon as they began using the very communications devices they received under this program to acquire earnings.

45. Although the Commission recognizes the interest that some commenters have in raising the income threshold even further, absent authority from Congress, the Commission cannot remove the low-income limitation from the eligibility requirements to allow deaf-blind individuals who do not meet the income requirement to receive the program's benefits. Nevertheless, based on its experience with the pilot program, the record in this proceeding, and the general interest by many state programs to reach as many people with disabilities as possible, the Commission concludes that 400% of the FPG strikes the appropriate balance. Accordingly, given the goal of the CVAA "to ensure that individuals with disabilities are able to utilize fully . . . essential advanced technologies," S. Rep. No. 111–386 at 3 (2010), and given the unusually high medical and disability-related expenses generally incurred by the covered population, it concludes that the 400% threshold originally adopted by the Commission for the pilot program is appropriate for the permanent NDBEDP.

46. *Calculation of Income.* In the *NDBEDP 2015 NPRM,* the Commission sought comment on how income should be calculated to determine eligibility for NDBEDP applicants and specifically asked whether this should be based on the individual's "taxable income," *i.e.,* the amount used to compute the taxes owed by the applicant. After a careful review of this issue, the Commission declines to base eligibility on an applicant's taxable income in the permanent NDBEDP. The Commission recognizes that there is support from several commenters for this approach because it may allow additional individuals into this program. However, the Commission believes that the threshold of 400% of the FPG will sufficiently take into account the high costs of medical, disability and equipment-related expenses incurred by people with disabilities, effectively addressing Congress's dual interests in limiting this program to individuals who have lower incomes, and serving as many eligible individuals as possible. Additionally, the Commission is concerned that, as a program structured with decentralized administrative responsibilities, use of taxable income to determine eligibility would place a significant administrative burden on individual local certified programs with limited financial resources and small workforces, detracting from the program's mission. By focusing on total income, the income verification process will be simplified, consistent, and less prone to errors. Furthermore, the Commission's research failed to uncover any precedent for using taxable income to determine eligibility to participate in a federal subsidy program.

47. The Commission, therefore, affirms the guidance initially issued by the Bureau during the pilot program, which mirrors that used by its Lifeline program, and will continue its practice of basing calculations of income for determining program eligibility on all income received by all members of a household:

> This includes salary before deductions for taxes, public assistance benefits, social security payments, pensions, unemployment compensation, veteran's benefits, inheritances, alimony, child support payments, worker's compensation benefits, gifts, lottery winnings, and the like. The only exceptions are student financial aid, military housing and cost-of-living allowances, irregular income from occasional small jobs such as baby-sitting or lawn mowing and the like.

NDBEDP FAQ 23; 47 CFR 54.400(f).

48. During the NDBEDP pilot program, in guidance provided to the certified programs, the Bureau explained that an applicant's "income" includes all income received by all members of an applicant's "household." *NDBEDP FAQ* 23. This Bureau guidance went on to define a "household" as:

> . . . any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An "economic unit" consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him/her, both people shall be considered part of the same household. Children under the age of eighteen living with their parents or guardians are considered to be part of the same household as their parents or guardians.

NDBEDP FAQ 24; 47 CFR 54.400(h).

49. In the *NDBEDP 2015 NPRM,* the Commission proposed to clarify that multiple adults living together as roommates or in a multi-person home are not an "economic unit" and therefore not a "household" for purposes of determining income eligibility pursuant to the Bureau's guidance. Similarly, the Commission proposed to make clear that where an adult applicant lives in a multi-person home but does not have access to the financial resources of other individuals living in that household, the income of such individuals should not be included in the applicant's income determination. Commenters generally support this clarification, to ensure that otherwise qualified applicants are not harmed due to household arrangements. The Commission agrees that, where an applicant lives in a multi-person home but does not have access to the financial resources of others, such applicant is maintaining a financially distinct identity despite the shared living space. In this instance, the Commission concludes that combining the applicant's income and expenses with those of others in the household for purposes of determining the applicant's income eligibility could unfairly disqualify such applicant from the NDBEDP. Accordingly, the Commission clarifies that an applicant's income will not include the income of other adults in a household if such adults do not contribute to and share in the income and expenses of the household. By contrast, when an applicant benefits from the income contributions of other household members, the Commission continues to believe that it is appropriate and necessary to consider such contributions in determining NDBEDP eligibility. For example, when an applicant is financially dependent upon others in a household, or has income that is intertwined with those of another household member (as with a spouse), the applicant benefits from such financial resources, and therefore the individuals contributing to these shared funds will be considered part of the economic unit for purposes of his or her income determination.

50. *Verification of Income Eligibility.* The NDBEDP pilot program rules provide that applicants who provide evidence of enrollment in federal or state subsidy programs that require income thresholds lower than 400% of the FPG will automatically be deemed to be "low income" under the NDBEDP without submitting further verification. Based on support in the record and its experience with the pilot program, the Commission concludes that this approach is reasonable and reliable, simplifies the income verification process for applicants and certified programs, imposes little burden and expense, and is consistent with the approach adopted for the Commission's Lifeline program. Thus, the Commission will retain this provision under the permanent NDBEDP. In addition, consistent with the Commission's rules governing the Lifeline program, in order to prove participation in one of these programs, an NDBEDP applicant may submit a current or prior year statement of benefits, a notice or letter of participation, program participation documents, or official documents

demonstrating that the applicant receives benefits from a qualifying assistance program.

51. To promote consistency across the NDBEDP and Lifeline programs and increase efficiency, the Commission will also modify the list of examples of federal assistance programs that applicants may use to automatically establish eligibility to participate in the NDBEDP to mirror a recently revised list of federal assistance programs used to establish eligibility for the Lifeline program. Under these revised requirements, applicants who receive benefits from certain federal assistance programs—Federal Public Housing Assistance, Supplemental Nutrition Assistance Program, Medicaid, Supplemental Security Income, or Veterans and Survivors Pension Benefit—are deemed income eligible for enrollment in the Lifeline program. The NDBEDP Administrator also may identify state or other federal programs with income eligibility thresholds that do not exceed 400% of the FPG for determining income eligibility for participation in the NDBEDP.

52. For applicants who are not enrolled in a qualifying program, the Commission will continue to require certified programs to verify low-income eligibility by using appropriate and reasonable means. Consistent with the Commission's Lifeline program rules, the following documentation may be used to prove income eligibility:

> the prior year's state, federal, or Tribal tax return; current income statement from an employer or paycheck stub; a Social Security statement of benefits; a Veterans Administration statement of benefits; a retirement/pension statement of benefits; an unemployment/Workers' Compensation statement of benefit; federal or Tribal notice letter of participation in General Assistance; or a divorce decree, child support award, or other official document containing income information.

47 CFR 54.410(b)(1)(i)(B). Also consistent with the Lifeline program rules, if the documentation presented does not cover a full year, such as current pay stubs, the applicant must present the same type of documentation covering three consecutive months within the previous twelve months. The Commission directs the Bureau to assess whether any new forms developed for applicants to establish identity and eligibility for the Lifeline program would be appropriate for applicants to submit data to establish income eligibility to participate in the NDBEDP, and to update the guidance the Bureau provides to certified programs with respect to income eligibility documentation, as needed.

53. In the *NDBEDP 2015 NPRM,* the Commission sought comment on requiring a third party to verify an applicant's income. The Commission declines to adopt this requirement at this time. The Commission is persuaded by commenters that the burdens that such verification would impose upon certified programs, as well as the likely delay in processing applications, are not outweighed by the benefits of imposing this requirement. Because certified programs under the NDBEDP have been allocated a limited amount of funds, the Commission believes that their incentives largely are to extend their dollars to as many qualifying deaf-blind state residents as possible, rather than to approve ineligible applicants. Nor is there any evidence in the record to suggest that NDBEDP certified programs have not been effective in verifying their applicants' incomes, which might justify using a third-party verifier. As such, the Commission finds that requiring certified programs to individually verify income eligibility is an appropriate method to accomplish income verification for this program at this time. However, the Commission will continue to monitor certified program operations to evaluate the need for a third party to verify applicant eligibility in the future.

54. Finally, in the *NDBEDP 2015 NPRM,* the Commission proposed to require certified programs to re-verify an individual's income eligibility when the individual applies for new equipment one year or more after the program last verified the individual's income. Commenters generally recognize that income does change over time and agree that re-verification of income eligibility after one year is reasonable. The Commission concurs and adopts this requirement for the permanent NDBEDP.

55. *Access to Covered Services.* In the *NDBEDP Pilot Program Order,* the Commission recognized that giving communications equipment to individuals who are deaf-blind who do not have the service needed to use the equipment would not be an effective use of the program's limited resources. For this reason, the pilot program rules permit certified programs to require that NDBEDP equipment recipients demonstrate that they have access to the telecommunications, Internet access, or advanced communications services that the equipment is designed to use and make accessible. Access to such services may be in the form of free wireless, WiFi, or other services made available by public or private entities, such as libraries, coffee shops, local governments, or by the recipient's family, friends, neighbors, or other personal contacts. The Commission continues to believe that it makes little sense to distribute equipment to people who do not have access to the covered services they need to use it and will, therefore, retain this rule in the permanent NDBEDP.

56. *Employment.* The pilot program rules prohibit certified programs from imposing employment-related eligibility requirements for individuals to participate in the program. In the *NDBEDP Pilot Program Order,* the Commission reasoned that requiring equipment recipients to be employed or seeking employment would be inconsistent with the purpose of the program—to expand access to covered services for individuals who are deaf-blind—and could unnecessarily exclude children, students, retirees, and senior citizens. For these reasons, the Commission will retain this rule for the permanent NDBEDP. The Commission notes as well that there is no statutory basis for such a requirement under the CVAA.

57. *Age.* The NDBEDP pilot program rules have placed no restrictions on the age of equipment recipients. As the Commission noted in the *NDBEDP Pilot Program Order,* advocates believe that the program should serve all eligible consumers, regardless of age, and that even very young children who are deaf-blind should have the same opportunity to learn how to use information and communication technology as their peers who are not deaf-blind. The Commission continues to believe that the permanent NDBEDP should continue to serve as a program that supplements, rather than supplants, state or federal resources otherwise available to assist persons who are deaf-blind, and thus, where communications equipment needs are being met through such other available resources, those should be used as a primary source of assistance before turning to the NDBEDP. The Commission further agrees with commenters that the permanent NDBEDP should not impose mandatory age thresholds. Rather, the Commission directs certified programs to use their expertise to conduct assessments that can determine the extent to which applicants of very young ages—for example under four years of age—are developmentally capable of using the communications equipment being considered for such persons, as well as the communication services that the equipment is designed to access.

Equipment and Related Services

58. *Equipment.* As authorized by section 719 of the Act, the Commission makes TRS Fund monies available to support programs that are approved by the Commission for the distribution of SCPE designed to make telecommunications service, Internet access service, and advanced communications services, including interexchange services and advanced telecommunications and information services, collectively referred to as "covered services," accessible to low-income people who are deaf-blind. *See* 47 U.S.C. 620(a). In the NDBEDP pilot program rules, the Commission determined that under this provision, reimbursement can be provided to state programs for hardware, software, and applications, whether separate or in combination, mainstream or specialized, needed by an individual who is deaf-blind to achieve access to covered services. Equipment-related expenses, including those attributable to maintenance, repairs, warranties, and maintaining an inventory of loaner equipment, as well as the costs of refurbishing and upgrading previously distributed equipment, also have been reimbursable. Programs have not been permitted to impose restrictions on the types of communications technology that a recipient may receive, disable features or functions needed to access covered services, or accept financial arrangements from a vendor that could incentivize the purchase of particular equipment. Certified programs have been allowed to lend or transfer ownership of the distributed equipment to eligible recipients, and, for consumers re-locating out of the state, programs have been required to transfer the account and any control of the consumer's distributed equipment to new state's certified program. For the reasons discussed below, the Commission adopts its tentative conclusion to retain these pilot program rules because it believes that the approach taken for the NDBEDP pilot program has been reasonable and flexible, has benefitted consumers, is authorized by section 719 of the Act, and has furthered the purpose of the CVAA.

59. *Equipment—Allowable Equipment.* The Commission retains the pilot program's definition of "equipment" for purposes of determining reimbursable expenses under the permanent NDBEDP. In so doing, the Commission affirms its previous determination that mainstream or "off-the-shelf" equipment may be provided, along with specialized or assistive equipment, to eligible consumers under this program if it meets the needs of an eligible applicant. While section 719 of the Act refers specifically to "specialized customer premises equipment," the Commission adopts a broad interpretation of this term because it finds it to be consistent with the plain language of this section and Congress's underlying intent "to help ensure that individuals with disabilities are able to fully utilize communications services and equipment." S. Rep. at 1; H. Rep. No. 111–563 at 19 (2010) (H. Rep.). In addition, as the Commission noted in the *NDBEDP Pilot Program Order,* this is consistent with principles of universal design, which seek to ensure that products available to the general public are designed so that they can be used for effective communication by as wide a range of individuals as possible, including people with disabilities, regardless of their functional differences.

60. The Commission finds sufficient authority to adopt this approach. First, the Commission notes that, under the plain language of the statute, the Commission is permitted to give funding to "programs" that distribute SCPE. Accordingly, as in the *NDBEDP Pilot Program Order,* the Commission concludes that it is reasonable to interpret the statute as authorizing the funding of a program's provision of off-the-shelf equipment and services, where reasonably necessary to enable deaf-blind individuals to "utilize fully the essential advanced technologies that have developed since the passing of the Americans with Disabilities Act and subsequent statutes addressing communications accessibility." S. Rep. at 3. As the Commission explained in the *NDBEDP Pilot Program Order,* some mainstream equipment, alone or packaged in combination with specialized software or hardware, may effectively and cost-efficiently meet the needs of some individuals who are deaf-blind. In addition, such equipment is often easier to procure and to support than CPE that is designed for use solely by people with disabilities. The Commission further concludes that the underlying purpose of section 719 of the Act is well served by permitting the distribution of mainstream equipment and the provision of software that serve the same purpose as equipment designed for use solely by people with disabilities, when such mainstream equipment may be more cost-effective and easier to procure and support. Especially in light of the statutory limitation of funding to $10 million annually, an interpretation of section 719 of the Act that limits funding to the distribution of a narrow category of CPE and that does not permit reimbursement of the provision of functionally equivalent mainstream equipment and software with equivalent functions would patently frustrate the purpose of this provision by precluding programs from using less expensive approaches to serving their clients. Moreover, a very strict construction of this term might prevent the Commission from supporting the distribution of non-SCPE devices that have built-in SCPE features (*e.g.,* magnification software). The Commission expects that the interpretation it adopts will instead expand the number of consumers who are able to be served with such limited allocations of funding.

61. The Commission also notes that recent developments have brought many types of mainstream equipment within the Commission's current definitions of SCPE. Because SCPE is not defined in section 719 (or elsewhere in the Act), the Commission finds that it is reasonable to define this term consistently with the existing definitions of SCPE in the Commission's rules. Specifically, in parts 6, 7, and 14 of the Commission's rules, SCPE is defined, in relevant part, as "equipment employed on the premises of a person," "which is commonly used by individuals with disabilities to achieve access" to telecommunications service, Internet access service, or advanced communications services. 47 CFR 6.3(i), 7.3(i), 14.10(f), (u). Over the past few years, obligations contained in sections 255, 716, and 718 of the Act—which have, with certain limitations, directed the inclusion of accessibility features in off-the-shelf products and services used with telecommunications and advanced communications services, respectively—have resulted in a greater number of mainstream communications devices being designed to be accessible to people with disabilities—including people who are deaf-blind. 47 U.S.C. 255, 617, 619. As a consequence, such off-the-shelf devices are now more "commonly used" by people who are deaf-blind to access services under section 719 of the Act—*i.e.,* access features that are now built into these devices have, to some extent, eliminated the need for some deaf-blind individuals to obtain adjunct or "specialized" devices in order to use products that are also used by the general population. Such accessible mainstream devices, then, could be said to be one type of SCPE that are designed to make covered services accessible by

low-income individuals who are deaf-blind under section 719 of the Act.

62. The Commission agrees with commenters who support maintaining the flexibility given to certified programs to determine the types of qualifying equipment most appropriate for their eligible residents. In the permanent NDBEDP, the Commission will continue to allow programs to seek reimbursement for the reasonable costs of equipment best tailored to the needs of their residents, up to each certified program's annual funding allocation. While some individuals use American Sign Language or tactile methods of communication, others use spoken English or Braille, and still others use a combination of various communications methods. Consequently, one individual may need a large screen together with magnification software to read large print, another might need a videophone or iPad to make video calls, another might need a refreshable Braille display, and others might need a mix of off-the-shelf and assistive devices. Flexibility is key to ensuring that individuals are accommodated effectively under this program.

63. Commenters support, and the Commission agrees, that certified programs should continue to have the discretion to distribute one or multiple pieces of equipment, as may be necessary to achieve access to more than one type of covered communications service or to achieve such access in more than one setting. Allowing programs to determine which technology best fits each applicant, and when, is necessary to achieve Congress's purpose to bring the benefits of communications technologies to the intended population.

64. For these same reasons, the Commission will continue to prohibit certified programs from imposing restrictions on specific brands, models or types of communications technology that recipients may receive to access covered services, and from disabling features or functions needed to access covered services. Further, as the Commission noted in the *NDBEDP Pilot Program Order,* "[c]ertified programs must not be limited by state statute or otherwise to distribute equipment to make only some communications accessible; certified programs must be permitted to distribute equipment to enable deaf-blind individuals to access the full spectrum of communication options covered under section 719 of the Act, as needed by those individuals." The Commission believes that this requirement has helped to ensure consumer choice and access to the full spectrum of NDBEDP-covered services during the pilot program. The Commission stresses, however, that reimbursable equipment must be needed by the specific applicant who is deaf-blind to achieve access to covered services. As explained in the *NDBEDP 2015 NPRM,* the same piece of equipment may be suitable for one individual, yet inappropriate for another. Further, equipment that does not enable access to covered services cannot be funded by the NDBEDP. The Commission will continue to rely on the expertise of certified program personnel to conduct individual needs assessments to determine the equipment most suited to meet each consumer's unique communication needs. Because of the associated administrative burdens and commenters' desire for parity among certified programs, the Commission declines to permit certified programs the discretion to allow consumers to pay certified programs the difference in cost to upgrade equipment distributed by the program. To aid reimbursement certainty, the Commission will continue to allow certified programs to consult with the NDBEDP Administrator about whether a particular piece of equipment specified for an applicant is reimbursable before purchasing it.

65. *Equipment—Equipment-Related Expenses.* Under the NDBEDP pilot program, the Commission also has reimbursed certified programs for the reasonable costs of equipment-related expenses, including the costs associated with equipment maintenance, repairs, warranties, equipment refurbishments and upgrades, and the costs of having state programs maintain inventories of loaner equipment. The Commission will continue to reimburse certified programs for the reasonable costs of these equipment-related expenses in the permanent NDBEDP. As the Commission explained in the *NDBEDP Pilot Program Order,* because some specialized devices (*e.g.,* refreshable Braille displays) require frequent maintenance and are expensive to repair, the "reasonable costs associated with equipment maintenance and repairs that are not covered under warranties are eligible for reimbursement" as "necessary components of an effective NDBEDP." Further, the Commission will continue to recommend that certified programs provide consumers with the means to return equipment to their certified program, particularly devices or other hardware that the consumer no longer needs or uses, for possible refurbishing and redistribution. To keep current with changes in technology and individual needs, the Commission continues to see merit in reimbursing certified programs for the reasonable costs of equipment refurbishments and upgrades, to ensure consumers have up-to-date equipment. Finally, to help ensure accessible communications in the event that equipment is in need of repair, the Commission continues to encourage certified programs to maintain an inventory of equipment for loan to consumers. In addition, during the pilot program, the Commission has permitted certified programs to use their inventories of loaner equipment for other purposes, including the performance of individual assessments. The Commission agrees that consumers benefit and assessment outcomes improve when consumers are able to experience, interact with, and try out different technologies and equipment, and for this reason, the Commission includes a provision in the permanent NDBEDP rules to make clear that loaner equipment in inventories may be used for this purpose.

66. *Equipment—Cost Efficiencies and Reassessments.* Commenters confirm that significant changes in hearing, vision, or medical status may trigger the need for reassessment and new equipment, and generally support a reassessment when such changes might affect an individual's need for communications devices. The Commission encourages equipment recipients to contact their state program when they experience a significant change in their hearing, vision, or other functions that interferes with their ability to use the equipment provided by the program. The Commission further directs certified programs, upon learning of such changes, to reassess the communications needs of individuals to determine whether the equipment provided continues to meet the recipient's needs or new or additional equipment is needed. The Commission also directs CGB and the NDBEDP Administrator to monitor equipment costs and provide such additional guidance as may be appropriate to the certified programs to improve the cost efficiencies of their equipment purchases. Given the large range of devices needed to meet the unique needs of the individuals served by the NDBEDP, as well as the wide geographic range of this program, the Commission agrees that certified programs need the flexibility to purchase equipment from a variety of vendors, including local vendors who may have experience working with consumers who are deaf-blind or offer local service and maintenance options.

67. *Equipment—Reimbursement Claim Documentation.* Under the pilot program, the Commission has required the following of each certified program: (1) To submit documentation to support claims for reimbursement for equipment and related expenses, and (2) when it has not been obvious that the equipment distributed can be or is commonly used by individuals who are deaf-blind to access covered services (and, therefore, it is not obvious that the equipment qualifies for reimbursement), to submit supplementary documentation upon request by the NDBEDP Administrator or the TRS Fund Administrator. The Commission's experience during the pilot program has confirmed that these requirements effectively serve to safeguard the TRS Fund while ensuring recipients receive the equipment they need, and thus, the Commission will retain these for the permanent NDBEDP.

68. *Equipment—Discretion for Programs to Lend or Transfer Ownership of Equipment.* During the NDBEDP pilot program, certified programs have been allowed to lend or transfer ownership of equipment to eligible NDBEDP recipients. The Commission concludes that the term "distribute" used in section 719 of the Act is broad enough to encompass both lending and transfer of ownership. Further, the Commission has found that consumers have been served well both by programs that lend equipment and by those that transfer ownership of the equipment. The Commission continues to believe, as the Commission explained in the *NDBEDP Pilot Program Order,* that, while lending equipment might be preferable, particularly given the high cost of some specialized equipment, not permitting the transfer of equipment ownership to eligible recipients may exclude entities that are bound by state statutes to use this method of distribution from being certified to participate in the NDBEDP. For those programs that choose to lend equipment, the Commission also will continue to require that recipients be permitted to keep their devices for as long as needed.

69. The pilot program rules also have required certified programs to prohibit recipients from transferring equipment received under the NDBEDP to another person through sale or otherwise. Given that the NDBEDP is a federal program with limited resources, and there is support for this prohibition in the record, the Commission will retain it for the permanent NDBEDP.

70. *Equipment—Notice to Equipment Applicants.* In the *NDBEDP 2015 NPRM,* the Commission also sought comment on the need for a uniform attestation that would, among other things, notify each applicant about the prohibition against transferring equipment and request permission to allow certified programs to disclose information about the applicant, as needed, to minimize any interruption in service if that person moves to another state or a new entity takes over certification for that individual's state. The Commission concludes that inclusion of such attestation is necessary for the effective general administration, operation, and oversight of the program. Therefore, and to ensure sufficient notice about the disclosure of PII for semiannual reporting and other purposes of administration and operation of the NDBEDP, as well as the need to comply with Commission rules and the consequences of failing to do so, the Commission requires the following attestation or a substantially similar attestation on all consumer application forms:

> I certify that all information provided on this application, including information about my disability and income, is true, complete, and accurate to the best of my knowledge. I authorize program representatives to verify the information provided.
>
> I permit information about me to be shared with my state's current and successor program managers and representatives for the administration of the program and for the delivery of equipment and services to me. I also permit information about me to be reported to the Federal Communications Commission for the administration, operation, and oversight of the program.
>
> If I am accepted into the program, I agree to use program services solely for the purposes intended. I understand that I may not sell, give, or lend to another person any equipment provided to me by the program.
>
> If I provide any false records or fail to comply with these or other requirements or conditions of the program, program officials may end services to me immediately. Also, if I violate these or other requirements or conditions of the program on purpose, program officials may take legal action against me.
>
> I certify that I have read, understand, and accept these conditions to participate in iCanConnect (the National Deaf-Blind Equipment Distribution Program).

Certified programs that learn that an individual has unlawfully obtained equipment or has unlawfully sold or transferred equipment that was purchased with NDBEDP funds have an obligation to take appropriate steps to reclaim such equipment or its worth. The Commission will permit, though does not require, certified programs to instruct equipment recipients about how to care for and safeguard the equipment they receive. Similarly, certified programs may inform equipment recipients about available warranties and service agreements accompanying the equipment, and remind recipients that because program resources are limited, the program may not be able to promptly replace equipment that has been damaged, lost, or stolen.

71. The Commission agrees with commenters that, given the frequency with which equipment is upgraded or replaced due to changes in technology, it would be burdensome and impractical for certified programs to otherwise verify on a regular basis that the equipment continues to reside in the recipient's possession. The Commission, therefore, will not impose this requirement.

72. *Equipment—Consumer Relocations.* During the NDBEDP pilot program, when an equipment recipient has relocated to another state, the Commission has required the originating certified program to transfer the consumer's account—as well as any title to and control of the distributed equipment held by the originating program—to the new state's certified program. The receiving state's program has had a corresponding requirement to accept this transfer. The Commission will retain this provision in the permanent program because it reduces the need for individuals to reapply to the NDBEDP upon relocating.

73. *Equipment—Equipment Listings.* In the *NDBEDP 2015 NPRM,* the Commission observed that the iCanConnect Web site, which is maintained as part of the NDBEDP national outreach effort, provides general information about different kinds of equipment that may be provided, along with examples of specific communication devices commonly used by people who are deaf-blind. Based on the record and the Commission's experience during the pilot program, the Commission concludes that general information about and examples of equipment provided as part of the iCanConnect Web site serves an important purpose and should be kept up to date as part of the NDBEDP national outreach efforts. Since the release of the *NDBEDP 2015 NPRM,* the equipment list on the iCanConnect Web site has been updated quarterly, which the Commission believes is reasonable. The Commission does not at this time require the iCanConnect Web site to provide other functionalities, such as the ability to compare and contrast different communication devices or to comment on the equipment listed. The Commission believes that the cost to develop and maintain such features (such as moderating input from multiple

sources) outweighs the potential benefits.

74. The Commission adopts its proposal that the iCanConnect Web site contain a clear and conspicuous notice that the selection of and reimbursement for any piece of equipment distributed under the NDBEDP must be based on an individual case-by-case assessment and be consistent with the NDBEDP rules. The following notice, which currently appears on the iCanConnect Web site, will satisfy this requirement:

> This page provides an overview of the types of distance communication tools the program can provide to help people with significant combined hearing and vision loss stay connected to friends and family. The appearance of a specific piece of equipment on the iCanConnect Web site does not mean that it is appropriate for every program participant. iCanConnect professionals in each state and local community will work with individual consumers to identify the equipment that addresses that person's specific need, and to be sure that the equipment selected is consistent with the FCC's rules.

The Commission notes as well that the centralized database for the permanent NDBEDP, when established, could also be populated with information about equipment distributed by certified programs across the country. Along these lines, to the extent technologically feasible, the Commission believes that enabling certified programs to query this database to generate a list of equipment that has been provided through the NDBEDP would be helpful to their operations. Accordingly, the Commission directs the Bureau and the NDBEDP Administrator to consider including this query function in the centralized database. To the extent that such database contains information about distributed equipment, the Commission further directs inclusion of the notice specified above, pertaining to the need for individualized assessments and compliance with the Commission's rules.

75. *Assessments.* Under the NDBEDP pilot program, the Commission's rules have permitted reimbursement for the reasonable costs of individualized assessments of a deaf-blind individual's communications needs by qualified assistive technology specialists. These costs have included the reasonable travel costs of state program staff and contractors who conduct assessments of applicants to support the distribution of equipment by certified programs, as well as the reasonable costs of support services, such as qualified interpreters. In the *NDBEDP 2015 NPRM,* the Commission tentatively concluded that individual assessments are a continued necessity, and that assessment-related travel should continue to be reimbursed.

76. Given the Commission's experience under the pilot program and support in the record, it affirms these tentative conclusions. The Commission concludes, as it concluded in the NDBEDP Pilot Program Order, that given the wide range of hearing and vision disabilities across the deaf-blind population, individualized assessments are "necessary to ensure that the equipment provided to deaf-blind individuals effectively meets their needs," will "reduce[ ] the incidence of equipment being abandoned (because it is a poor match to the user's needs)," and thereby will achieve efficiencies in the NDBEDP. The Commission agrees with commenters that section719 of the Act is reasonably construed to encompass the costs of assessing what equipment is needed in order to make covered services accessible to a particular individual. Such application of the statute, the Commission concludes, is necessary to ensure that the equipment provided enables deaf-blind individuals to "utilize fully . . . essential advanced technologies." S. Rep. at 3. The Commission further concludes that allowing reimbursement for travel by assessors and support services to consumers' homes will permit assessors to consider the home environment and communications technology the consumer may already have, when assessing need.

77. The Commission directs the NDBEDP Administrator to continue conducting qualitative reviews of all assessment and associated travel and support service costs to assess their reasonableness in light of the mandate of section 719 of the Act. The Commission instructs the NDBEDP Administrator to take the varying characteristics that are unique to each consumer, as well as the assessors' rates, travel requirements, and support services needed, and other relevant factors into consideration in making individual determinations as to the reasonableness of assessment-related costs.

78. *Installation and Training.* Under the NDBEDP pilot program, the Commission has permitted reimbursement for the reasonable costs of installing NDBEDP distributed equipment and conducting individualized consumer training on how to use such equipment. The record supports continuing to allow the reasonable costs of equipment installation and consumer training, including related travel (by trainers) and support services, such as qualified interpreters. The Commission concludes, consistent with the *NDBEDP Pilot Program Order,* that these program features are essential to the efficient and effective distribution of equipment to people who are deaf-blind. The Commission also continues to recognize that that the amount of time it takes to train individuals who are deaf-blind on new communications equipment depends on a variety of factors, including a wide range of capabilities and experiences with communications technologies. Finally, the Commission finds no basis, at this time, for revisiting the finding in the *NDBEDP Pilot Program Order* that individualized consumer training through remote methods, such as online training modules or video conferencing, generally is not feasible for deaf-blind individuals.

79. The Commission, therefore, directs the NDBEDP Administrator to continue to conduct qualitative reviews of each individual claim for reimbursement of installation, training, and associated travel and support service costs to assess their reasonableness. The Commission also instructs the NDBEDP Administrator to take relevant factors into consideration in making determinations as to the reasonableness of training-related costs, including, but not limited to, the individual's capabilities and experience with communications technologies, the forms of communication being used, the need for interpreters or other support services, and whether the consumer is being trained to use multiple devices.

80. *Center-Based Assessments and Training.* Under the pilot program, the Commission has not reimbursed certified programs for travel costs that are incurred by a deaf-blind consumer who goes to an NDBEDP center, to receive a communications assessment or training. An "NDBEDP center" is one or more locations designated by the certified program that are equipped and staffed for the purpose of conducting assessments or training, or both. Given the record support, as well as the benefits and potential cost savings that can result from allowing reimbursement for consumer travel to NDBEDP centers for assessments or training, the Commission believes it is in the best interest of the permanent NDBEDP to allow reimbursement for such costs, when reasonable. As the Commission noted in the *NDBEDP 2015 NPRM,* a consumer may benefit from an opportunity to try out a variety of equipment at the NDBEDP center that cannot be transported to a consumer's home. In addition to this and other points made in the record, when a consumer travels to an NDBEDP

center—rather than having staff or a contractor travel from the center to the consumer—the program can save costs that would have been incurred for the travel time and related expenses of NDBEDP program staff or contractors.

81. The Commission will only permit reimbursement of the costs of having a consumer travel to an NDBEDP center, however, when these costs are first pre-approved by the certified program upon a determination that the reasonable costs of this travel would be more efficient and effective than having the assessor travel to the consumer. Factors that should go into this determination should include, among other things, the availability of local training and assessment resources, the need to try out equipment that would be too difficult to transport to the consumer's home, and the cost savings for the program. In order to permit such travel costs, state programs must have guidelines in place that are consistent with state or federal travel guidance setting reasonable limits on travel costs. Each certified program will have the further option to request pre-approval by the NDBEDP Administrator before agreeing to reimburse such costs.

82. While the Commission expects that most travel by consumers will be in-state travel, in some cases it may be more cost effective for a consumer to cross state lines to reach the closest center. As such, in certain circumstances, it may be more cost efficient to allow reimbursement to certified programs for the reasonable costs of consumer travel to another state, particularly to an adjoining state, for assessment and training. Each certified program will be required to obtain pre-approval from the NDBEDP Administrator for any out-of-state consumer travel costs. The NDBEDP Administrator should determine the extent to which such out-of-state travel would be more cost efficient and effective than in-state travel. All claims for reimbursement of costs related to consumer travel to a location outside of the consumer's state, as well as costs related to services provided to the consumer (*e.g.*, assessments or training) at a location outside of the consumer's state, should be submitted by the consumer's home state program.

83. In addition, consumers should not be forced to travel to an NDBEDP center, even if it is more cost efficient to have them travel than it is for an assessor or trainer to come to their home. Instead, consumers should have the choice of traveling or not, as long as the costs of such travel are reasonable, recognizing that there may be benefits, limitations, or logistical consequences for either option, such as a longer wait time to arrange for an assessment or training.

84. The NDBEDP Administrator will review each claim for travel reimbursement, in addition to conducting overall monitoring of travel expenses generally. The Commission believes that having the NDBEDP Administrator monitor these costs will ensure that the costs remain reasonable. The Commission further directs CGB and the NDBEDP Administrator to determine, during the fifth year of the permanent program, whether and to what extent certified programs should continue being reimbursed for the costs associated with consumer travel to an NDBEDP center beyond the fifth year of the permanent program. This assessment should consider all relevant factors, including a comparison of the costs for program personnel travel to the consumer's home versus the costs of consumer travel to an NDBEDP center, cost efficiencies, benefits, or advantages that inure to the program or to the consumer as a result of such compensation, and the availability of program funds. During the NDBEDP pilot program, programs did not use all $10 million available for this program, eliminating the need for programs to choose between reimbursing the costs of equipment and other services and features of the program, such as the costs of travel. If, in the future, a greater number of individuals participate in this program, funding may be tighter, as more consumers seek to obtain equipment. The five year review will take into consideration such competing demands on the available funding. If competing demands for program funds raise concerns about the feasibility of reimbursing these travel costs prior to the five year review, the Bureau may take steps to prioritize the use of such funding to reduce or eliminate such reimbursement, as necessary. In the absence of action by the Commission or the Bureau prior to or during the fifth year of the permanent NDBEDP to modify or terminate reimbursement for travel expenses, the Commission will continue to reimburse certified programs for the reasonable costs associated with program personnel travel and consumer travel to an NDBEDP center.

85. *Training Trainers.* For the reasons discussed below, the Commission will allow certified programs to use up to 2.5% of their NDBEDP funding allocations, or approximately $250,000 annually for all certified programs, for the costs of train-the-trainer activities for the first five years of the permanent NDBEDP. Funding for this purpose will be reallocated from funding previously used for national NDBEDP outreach. The Commission directs the Bureau to determine whether and to what extent such funding should be continued beyond this point during the fifth year of the permanent program.

86. Many individuals who are deaf-blind have had little or no prior experience with distance communications devices or the services that they access, and without training, they are not likely to be able to use the equipment they receive to effectively access communications services. At the same time, organizations representing people who are deaf-blind have often expressed concerns about the shortage of qualified trainers, especially for recipients who use Braille or American Sign Language. While acknowledging such shortage, in the *NDBEDP Pilot Program Order,* the Commission declined to set aside funds during the pilot program to cover the cost of teaching NDBEDP personnel how to train individuals who are deaf-blind on the use of their equipment—*i.e.,* a "train-the-trainer" program—because of the limited funding available to the NDBEDP. Instead, the Commission encouraged certified programs to "maximize the use of limited resources through collaboration and partnerships between and among certified programs on a national or regional basis, as well as partnerships or contracts with other individuals and entities, . . . in order to locate [such] qualified individuals." However, the Commission added that it might reconsider this decision not to fund train-the-trainer programs in the future, based on information obtained through the pilot program.

87. Commenters report that a continuing shortage of qualified trainers has limited the timeliness, amount, and quality of training that equipment recipients have received during the NDBEDP pilot program. Further, the Commission's original expectation that the shortage of qualified trainers could be resolved through collaboration and partnerships among certified programs and other entities has not happened. Rather, the continuing shortage shows that other funding sources have not adequately addressed the problem during the pilot program. Thus, the Commission agrees with the majority of commenters that it is both appropriate and necessary at this time to allocate NDBEDP funding for train-the-trainer activities.

88. *Training Trainers—Commission Authority.* A primary purpose of the CVAA is "to help ensure that individuals with disabilities are able to fully utilize communications services and equipment." S. Rep. at 1; H. Rep.

at 19. The record shows an insufficient supply of trainers to meet the existing demand. As the Commission recognized in the *NDBEDP Pilot Program Order,* without training on the use of the equipment they receive, recipients will not be able to effectively benefit from the NDBEDP, and the equipment will be underutilized or abandoned. The Commission thus concludes that the mandate in section 719 of the Act—for the Commission to support programs approved for the distribution of SCPE designed to make covered services accessible to low-income individuals who are deaf-blind—provides the authority for the Commission to support train-the-trainer activities. 47 U.S.C. 620. The Commission believes that this approach is consistent with the Commission's prior decision to allow funding support during the NDBEDP pilot program for assessments, equipment installation, and consumer training. Although these services are not part of the act of distributing equipment *per se,* in the *NDBEDP Pilot Program Order,* the Commission found their financial support necessary because they "are essential to the efficient and effective distribution of equipment for use by people who are deaf-blind." Thus, the Commission concludes that funding for train-the-trainer activities is likewise a reasonable use of the Commission's authority under the CVAA and necessary to achieve its effective implementation.

89. *Training Trainers—Amount of Funding.* The Commission concludes that an initial allocation of $250,000, to be reallocated from funding previously used for national NDBEDP outreach, strikes an effective balance between supporting training activities and preserving funding for the actual distribution of equipment. Accordingly, the Commission directs such allocation for the first five years of the permanent program, with a review of this amount to take place during the fifth year.

90. *Training Trainers—Training Program Structure.* Given the benefits of allowing individual programs to determine the types of train-the-trainer activities they require, the Commission will permit each certified program to use up to 2.5% of their NDBEDP funding allocations, or approximately $250,000 annually for all certified programs, for train-the-trainer activities or programs as each deems appropriate. State programs may use these funds for individually state-run, regional or national programs that may be set up for such training purposes.

91. The Commission agrees with commenters who oppose treating these expenditures as an administrative cost, contending that training trainers is an activity that benefits state residents who are deaf-blind. Further, the Commission is concerned that increasing the cap on administrative costs from 15% to 17.5% might create an incentive for certified programs to forgo train-the-trainer activities in order to apply some of the unused train-the-trainer funds toward other administrative expenses. Such action might, in turn, exacerbate the persistent shortage of qualified trainers that the funding allocation for train-the-trainer activities is intended to abate. Separate accounting of train-the-trainer activities also will facilitate program oversight and evaluation of the use of this funding. To the extent that a state does not use up its full 2.5% allocation for train-the-trainer activities, it may re-allocate the unused funding to support the distribution of equipment and provision of related services to eligible consumers. For these reasons, the Commission requires certified programs to submit requests for reimbursement for the reasonable costs of train-the-trainer activities, which may be reimbursed up to 2.5% of a program's annual allocation.

92. *Training Trainers—Training Formats.* The Commission agrees with commenters that the needs of certified programs and the population they serve, along with differences in the skills and learning styles of their individual trainers, cannot be appropriately addressed without flexibility to choose from among various available training options. Therefore, the Commission will permit reimbursement for a range of train-the-trainer activities, including one-on-one on-the-job training, as well as individual, group, distance or online training activities and programs conducted by HKNC, certified programs, and other entities. The Commission further agrees that it is not appropriate for the NDBEDP to compensate equipment manufacturers or vendors for training trainers on how to use the equipment they manufacture or sell because these costs should be subsumed within the manufacturer's or vendor's costs of doing business. At the same time, the Commission understands that equipment manufacturers and vendors may be particularly well-suited to provide such training and having these entities provide training may be a cost-effective option, or in fact the only option available, given the persistent shortage of qualified trainers. For these reasons, though the Commission declines to provide reimbursement for a company's training fees, it will reimburse certified programs for their reasonable costs to obtain such training (*e.g.,* to cover the cost of their trainee's time and travel).

93. In response to comments filed in this proceeding, the Commission also encourages certified programs and other entities to train individuals who are deaf-blind to become qualified trainers, so that NDBEDP equipment recipients in turn can be trained by those with experience and knowledge of the equipment.

94. *Training Trainers—Fifth Year Assessment.* The Commission will provide NDBEDP support for train-the-trainer efforts during the first five years of the permanent program, and directs the Bureau to monitor such efforts during this period, for the purpose of making a recommendation to the Commission during the fifth year of the NDBEDP on whether and to what extent funding should be continued beyond that time. In light of concerns about the need for ongoing training to keep pace with changes in technology, however, funding for train-the-trainer activities will be continued at this level in the absence of action by the Commission or the Bureau to modify or terminate such support beyond the fifth year of the permanent NDBEDP. In making its determination, the Bureau should consider whether train-the-trainer activities and programs, as implemented, have advanced the purpose of the statute "to help ensure that individuals with disabilities are able to fully utilize communications services and equipment." S. Rep. at 1; H. Rep. at 19. To facilitate such assessment, the Commission directs the Bureau and the NDBEDP Administrator to consult with certified programs and other stakeholders, via public notice or by other means, to ascertain the extent to which train-the-trainer funding has mitigated the shortage of qualified trainers and improved the timeliness, amount, and quality of instruction provided to equipment recipients. The Commission believes that certified programs and other stakeholders, through these and other measures, will be in the best position, given their first-hand knowledge, to inform the Commission's assessment and determination about whether and to what extent funding for train-the-trainer activities and programs should be continued.

95. *National Outreach.* Each year since the commencement of the pilot program, the Commission has set aside $500,000 of the $10 million annual NDBEDP allocation to conduct national outreach. As the Commission explained in the *NDBEDP Pilot Program Order,* significant initial funding for outreach was necessary to launch the pilot

program, because eligible individuals needed to become informed about the availability of the program before distribution of equipment could take place. The Commission determined that use of this funding to support certified programs through national outreach efforts was an essential step to achieving the overall purpose of section 719 of the Act, *i.e.*, to enable low-income people who are deaf-blind to get the equipment they need to have access to covered services.

96. In 2012, the Bureau selected the Perkins School for the Blind (Perkins), which has partnered with HKNC, FableVision, Inc., and others, to be the national outreach coordinator for the NDBEDP pilot program. Their efforts resulted in, among other things, an NDBEDP Web site (*www.iCanConnect.org*), an active social media presence, public service announcements (PSAs), and advertisements on billboards and in magazines. Additional activities included establishing an 800 number and call center for program inquiries and referrals, producing marketing materials for use by state programs, conducting monthly conference calls among certified programs, the FCC, and the TRS Fund Administrator, and supporting state program efforts to collect and share program success stories.

97. The Commission concludes that it continues to have sufficient authority to support outreach activities because informing individuals who are deaf-blind about the availability of equipment is an essential step needed to support program efforts to distribute such equipment. Based on the comments submitted, the Commission finds that some national outreach, overseen by the NDBEDP Administrator, continues to be needed to raise awareness about the program, educate potential applicants on the ways that broadband and other communication services can enhance their lives, and instruct them on how to apply.

98. Given support in the record and the significant progress made in raising awareness of the NDBEDP during the pilot program, the Commission concludes that an annual allocation of $250,000 is likely to be sufficient at this time to ensure continuation of the critical components of the national outreach efforts. During the fifth year of the permanent program, the Commission directs the Bureau and the NDBEDP Administrator to determine the extent to which the allocation for national outreach efforts should be continued or adjusted, to ensure that funding allocated for the NDBEDP is used efficiently. To avoid a lapse in the provision of critical national outreach components—Web site, call center, digital marketing materials, social media, and support to state programs—funding for national outreach will continue to be available at this level beyond the fifth year of the permanent NDBEDP in the absence of action by the Commission or the Bureau to modify or terminate such support.

99. To avoid any disruption and loss of expertise developed by the current national outreach arm of the NDBEDP, the Commission authorizes Perkins to continue conducting national outreach activities for the first five years of the permanent program. The Commission directs the Bureau, as part of its evaluation of the NDBEDP national outreach efforts during the fifth year of the permanent program, to determine whether to extend Perkins's national outreach services for another five-year period or to invite new entities, via a public notice, to submit applications to conduct these efforts.

100. *National Outreach—Targeted Marketing Efforts.* Based on the comments received, the Commission concludes that national outreach efforts will be most effective at this point if they are targeted—at least in part—to reach eligible segments of the population that may be less aware of the NDBEDP, including senior citizens who may not identify as having a disability, individuals who are congenitally blind or deaf and who experience a second sensory loss later in life, ASL users, and individuals with limited English proficiency. To the extent feasible given the reduction in national outreach efforts, methods of reaching such groups could include dissemination of videos in ASL and material in languages other than English, and development of outreach channels in organizations that provide services to the aging population.

101. *National Outreach—Performance and Oversight.* To evaluate the efficacy of national outreach efforts during the fifth year of the program, the Commission establishes the following three performance goals: (1) To build awareness of the iCanConnect program generally; (2) to build awareness of the iCanConnect program among certain target populations; and (3) to increase application to and utilization of the program by the intended population of low-income people who are deaf-blind. The Commission further adopts the following performance metrics to assess the effectiveness of its national outreach efforts to meet each of these goals. First, the effectiveness of efforts to increase general awareness will be measured by traffic to NDBEDP call centers, iCanConnect Web site traffic, NDBEDP application downloads, and impressions on social media. The Commission encourages certified programs to make their consumer applications available through the *www.iCanConnect.org* state pages to enable tracking the number of application downloads as a performance metric. Any applications provided on this site must be provided in formats that are accessible to applicants. The Commission also encourages certified programs to keep their contact information on the *www.iCanConnect.org* state pages up to date to enable referrals. Second, the effectiveness of efforts to increase awareness by target populations will be measured by views of ASL videos prepared by the program, views or downloads of information in languages other than English, and responses to digital marketing efforts directed to resources related to target populations. Third, to determine the extent to which its national outreach efforts increase utilization of the NDBEDP by the intended population, the Commission will measure the number of individual applicants to the program, as well as the number of individuals who successfully receive NDBEDP equipment annually. While the Commission establishes this as a performance goal at this time, it notes that changes in the number of applicants and equipment recipients may be due to a wide range of factors, one of which may be national outreach. Further, the Commission notes that in order to effectively measure its success, the Commission will need to gather reliable data through uniform reporting into a centralized database. While other metrics suggested by commenters may be potentially useful, the Commission wishes to limit the number of measures employed in order to ensure that performance measurement for this relatively small program does not become a burdensome and unwieldy process. However, the Commission directs the Bureau and the NDBEDP Administrator to adjust or modify these performance goals and metrics as may be needed going forward.

102. During the pilot program, Perkins submitted national outreach cost data every three months for reimbursement purposes, as well as periodic reports on its national outreach efforts. Because the Commission found this information to be both timely and informative, the Commission requires that, going forward, Perkins, and any subsequent entity that may be selected by the Commission to conduct national outreach, submit cost data for

reimbursement purposes every three months, and, at a minimum, a summary and analysis of national outreach activities on an annual basis, in a format that will enable the NDBEDP Administrator to monitor the costs and efficacy of its outreach activities. This data will assist the NDBEDP Administrator to determine appropriate budgets for national outreach to the extent this is warranted in the future.

103. *Local Outreach.* In addition to allocating funding for national outreach, the Commission has required and reimbursed local outreach during each year of the pilot program. The Commission concludes that local outreach is needed along with national outreach due to the unique needs of each state program. In addition, local outreach can raise awareness of the NDBEDP in ways that are not always possible and among populations that are not necessarily reached using national media. The Commission, therefore, affirms its tentative conclusion to require certified programs to conduct local outreach activities reasonably calculated to inform their state residents about the NDBEDP, including the development and maintenance of their NDBEDP Web pages, and to reimburse programs for the reasonable costs of such outreach. In addition, the Commission encourages certified programs to conduct local outreach activities in languages other than English, such as Spanish, that may be prevalent in their states.

104. The Commission continues to require local outreach materials to be fully accessible to people with disabilities, noting that certified programs, whether they are entities operated by state or local governments or privately operated, already are required to ensure accessibility under the Americans with Disabilities Act. *See* 42 U.S.C. 12131 through 12134, 12181 through 12189. Finally, the Commission recommends that the national outreach coordinator provide information about its outreach initiatives on the iCanConnect Web site and on monthly calls with local programs. The Commission believes this coordination will avoid duplicative efforts and consumer confusion.

105. *Local Outreach—Level of Funding.* The Commission is cognizant of the geographic and demographic challenges faced by different states and recognize that it may not be advisable to treat funding for local outreach efforts with a one-size-fits-all standard. The Commission further notes that the reduction in funding for national outreach activities by 50% may affect the level of funding needed to conduct outreach activities at the local level. Alternatively, the Commission notes that because the NDBEDP has been in operation for four years, some states may not need the same levels of funding for outreach as they did when they first initiated their programs. On balance, while the Commission continues to believe that local outreach should constitute no more than 10% of a certified program's annual funding allocation, it will not mandate a hard cap at this time, but will require programs to seek permission from the NDBEDP Administrator to exceed this benchmark. The Commission directs the Bureau and the NDBEDP Administrator, in making a determination as to the reasonableness of a state's outreach expenditures, to examine the unique needs, demographics and regional conditions of each state, taking into consideration the certified program's outreach goals, metrics, and activities. Increased outreach expenditures could be considered reasonable where, for example, extra outreach is shown to be needed to reach targeted populations who have not been served in particular communities or to overcome shortcomings by prior program administrators. Recognizing that certified programs will necessarily focus on different outreach activities to reflect the unique challenges and demographic makeup of their jurisdictions, the Commission concludes that each certified program should retain the flexibility to identify the appropriate goals and metrics for determining the effectiveness of its own local outreach efforts.

106. To maximize the availability of funds for operations of direct benefit to equipment recipients, the Commission encourages certified programs to gradually reduce the amount used for outreach as demand for the NDBEDP accelerates. The Commission further directs the Bureau and the NDBEDP Administrator to assess the level of expenditures for local outreach during the fifth year of the permanent program and periodically thereafter as part of its ongoing and regular oversight and evaluation of the NDBEDP, to determine whether this guidance should be modified to increase the efficacy and efficiencies of the NDBEDP. In conducting this assessment, the Bureau and the NDBEDP Administrator may consider, among other things, the performance goals and measures established for the NDBEDP overall, the status of national outreach efforts, actual expenditures by certified programs for local outreach, the extent to which requests to exceed funding guidelines for local outreach by certified programs have been justified, and input provided by certified programs.

Funding

107. *Allocation of Funding.* In the *NDBEDP Pilot Program Order*, the Commission committed to making the full amount of authorized funding, $10 million annually, available to the NDBEDP during each TRS Fund year, which begins on July 1 of each year and terminates on June 30 of the following year. Of this amount, the Commission set aside $500,000 for national outreach efforts during each year of the pilot program. The Commission divided the remaining $9.5 million among each of the 53 NDBEDP certified programs by allocating a minimum base amount of $50,000 for each state, plus an amount in proportion to each state's population. The Commission explained in the *NDBEDP Pilot Program Order* that it elected this funding allocation strategy for certified programs "to ensure that, to the extent possible, every certified program in the NDBEDP pilot program receives a level of support that will both provide it with the incentive to participate in the NDBEDP and permit the distribution of equipment to as many eligible residents as possible." Under the pilot program rules, the Bureau was permitted to adjust or reallocate funding allocations to any certified program within a given Fund year, and to revise allocations for subsequent TRS Fund years, as the Bureau deemed necessary and appropriate.

108. *Initial Allocations.* Based on the Commission's experience during the pilot program and the record in this proceeding, the Commission will continue to use this funding mechanism for the permanent NDBEDP with the following exceptions: (1) The Commission will set aside $250,000 annually (rather than the $500,000 allocated for the pilot program) for national outreach efforts during the first five years of the permanent program and reassess the need for continuing such funding beyond this period; and (2) the Commission will set aside an amount as may be necessary annually for the creation and maintenance of a centralized database to be used for reporting purposes and generating reimbursement claims. The remaining amount will be divided up through allocations of a minimum of $50,000 for each certified program, to which will be added individual allocations in proportion to each state's or territory's population. Based on the current populations of American Samoa, Guam, and the Northern Mariana Islands,

which will be served under the permanent NDBEDP, applying this funding mechanism would result in allocating slightly more than $50,000 for each added territory, for a total of slightly more than $150,000 for all three jurisdictions. The Commission concludes that allocating this amount will not have a significant impact on the funding allocations of the other 53 certified programs, and so finds it appropriate to apply the current allocation mechanism to all jurisdictions under the permanent program.

109. The Commission's experience with the program has shown that this mechanism has allocated sufficient funds to most states annually to meet their residents' needs and, when such allocations have not been sufficient, states have had an opportunity to obtain additional funding through the reallocation process, discussed in more detail next. Further, the Commission believes that this funding allocation mechanism has provided each certified program with the incentive and opportunity to distribute communications equipment to as many eligible residents as possible. During the first year of the pilot program, certified programs, together with national outreach activities, collectively used approximately 68% of the $10 million allocated for the NDBEDP, approximately 94% was used during the second year, and approximately 88% was used during the third year. This funding enabled equipment and related services to bring communications access to approximately 3,000 low-income deaf-blind individuals.

110. *Reallocations.* The Commission further concludes that the ability to reallocate funds between certified programs mid-Fund year has helped requesting programs meet their needs and has not prevented programs with decreased funding from satisfying the needs of their constituents. During the pilot program, the NDBEDP Administrator reviewed funding data as it became available and worked with certified programs, the TRS Fund Administrator and the Bureau to reallocate funding between certified programs to maximize the use of available funding, when necessary. On some occasions, such reallocations were made at the request of state programs that realized they would be unable to spend their initial annual allocation ("voluntary" reallocations). On others, after providing notice, the NDBEDP Administrator reallocated funds from programs that were underutilizing their annual allocations, to satisfy requests from certified programs where demand for equipment and related services had exceeded their allocations ("involuntary" reallocations). Involuntary reallocations were processed by mid-May of the second and third years of the pilot program.

111. Given the success of this approach in maximizing available funds under the NDBEDP, the Commission will continue to authorize the Bureau, as necessary, to make (1) voluntary reallocations between certified programs at any time during the Fund year and (2) involuntary reallocations when individual program performance indicates that NDBEDP funds could be more fully utilized by other certified programs. The Commission believes that this approach will continue to fulfill Congress's goal of bringing communications access to as many low-income individuals who are deaf-blind as possible. *See* 47 U.S.C. 620(a). All such requests for reallocations must be submitted to the NDBEDP Administrator for approval by the Bureau, in consultation with the Office of the Managing Director (OMD) and the TRS Fund Administrator. Requests must be in writing, with an explanation supporting the request. To reduce the risk of interrupted or delayed services, the Commission further directs that involuntary reallocations be made by March or April, of each Fund year, to the extent possible.

112. The Commission will also continue the current practice of notifying and coordinating with the potentially impacted certified programs prior to making involuntary reallocations of funding, to allow programs to raise concerns or objections, and to permit time for any needed adjustments to the affected programs. As part of this process, certified programs will continue to have an opportunity to request that the NDBEDP Administrator consider increasing or decreasing the proposed change in allocation. The Commission believes that the formula used by the NDBEDP Administrator for involuntary reallocations during the pilot program—which reduced by 50% the remaining allocations of certified programs that spent less than 25% of their annual allocations during the first half of the year, and reduced by 25% the remaining allocations of programs that spent more than 25% but less than 50% of their annual allocations during the first half of the year—has worked well to meet the needs of the certified programs, and for this reason, retains this formula for the permanent program. At the same time, as the Commission previously noted, it expects that, over time, a greater number of certified programs will exhaust their initial annual funding allocation, which will consequently reduce funds available for voluntary and involuntary reallocations. The Commission will allow the NDBEDP Administrator to adjust the formula, if necessary, to account for a reduction in funds that may be available for reallocations.

113. Under the permanent program, allowable spending for administrative costs is capped at 15% of each state's initial funding allocation, and the Commission has determined that reasonable levels of spending for train-the-trainer activities and local outreach efforts are 2.5% and 10%, respectively. To provide certainty, if a certified program's funding allocation is adjusted downwards during a Fund year, and the program already incurred these expenses prior to such reallocations, the Commission will not seek to recover reimbursed expenses that exceed allowable percentages with respect to the revised funding allocation.

114. *Prioritizing Use of Funding.* In the *NDBEDP 2015 NPRM,* the Commission asked whether it should take measures to prioritize the use of funding in the event that demand exceeds the $10 million funding limitation and, if so, how. Although the record to date indicates annual NDBEDP expenditures as high as 94% of the $10 million annual allocation, there is no evidence of major inefficiencies or inequities in how available funding has been used. Therefore, and consistent with its conclusion that certified programs should continue to have flexibility in deciding how to spend their limited allocations of NDBEDP resources, the Commission concludes that it is premature at this time to adopt measures to prioritize the use of NDBEDP funding. Nonetheless, the Commission recognizes that the program has evolved and will continue to evolve over time. Accordingly, the Commission directs the Bureau, during the fifth year of the permanent program, to assess whether and to what extent the Commission should take additional steps to prioritize the use of funding. Because the Bureau also will be conducting assessments to determine the extent to which funding should be continued for travel, train-the-trainer activities, and outreach in the fifth year, the Commission sees this as a natural opportunity for the Bureau to also re-assess how to use program funds in light of overall program performance. The Commission further directs the Bureau to make such recommendations to the Commission as may be necessary and appropriate to maximize the efficiency and effectiveness of the program going

forward, based on this review. Finally, to the extent necessary to ensure that the NDBEDP is running efficiently and effectively, the Commission directs the Bureau to conduct an overall assessment of the permanent program's performance, including its use and prioritization of funding, in the program's tenth year, and to make any recommendations to the Commission as needed to improve the program's efficiency and effectiveness.

115. *Reimbursement Mechanism.* Under the NDBEDP pilot program, the Commission has reimbursed programs for the costs incurred for authorized equipment and related services, up to each certified program's initial or adjusted allocation. The Commission chose this approach—over blanket distributions to certified programs at the start of each Fund year—because it concluded that this would provide incentives for certified programs to actively locate and serve eligible participants, and would achieve greater accountability and protection against fraud, waste, and abuse.

116. The Commission will continue to use a funding mechanism that reimburses certified programs for their allowable costs associated with equipment distribution and related services up to each certified program's initial or adjusted funding allocation under the permanent NDBEDP. The Commission believes that this will ensure that certified programs operate in a cost-efficient manner and will maintain the financial integrity of the program. The Commission understands the difficulties that some certified programs, particularly smaller ones, initially incurred when starting up their pilot programs without funding support. However, the Commission continues to believe that holding back funding until costs are incurred will incent programs to serve as many eligible participants as possible, and will ensure accountability and protection against fraud, waste, and abuse. The Commission also believes that the reimbursement approach will facilitate the reallocation of unspent funds between state programs and that reallocation could be difficult if another funding mechanism were used. To ensure that entities seeking certification have the capacity to operate successfully in a system that reimburses them for their program costs, the Commission has added administrative and financial management experience as one of the criteria for certification under the permanent program.

117. *Claim Frequency and Payment Processing.* Under the NDBEDP pilot program, certified programs have been permitted to elect reimbursement monthly, quarterly, or semiannually. In the *NDBEDP 2015 NPRM,* the Commission proposed to continue allowing certified entities to elect one of these options upon certification and at the beginning of each Fund year. The Commission adopts this proposal for the permanent program. Continuing to permit certified programs to elect their reimbursement period will avoid imposing unnecessary administrative burdens on small programs, while allowing those programs that need more immediate reimbursement to file more often. Such elections shall be made upon receiving certification and at the beginning of each Fund year.

118. The Commission also adopts its proposal to continue requiring reimbursement claims to be submitted within 30 days after each elected period. This timeframe is supported by the record and will prevent delays when reallocations are deemed necessary. When a certified program submits its reimbursement claim more than 30 days after the claim period ends, payment of that claim may be delayed. In addition, if a program has a pattern of failing to submit claims in a timely manner, the Commission may take other action (*e.g.,* suspension or revocation of the program's certification). The NDBEDP Administrator may grant a reasonable extension of time to submit a reimbursement claim upon a finding of good cause when notified by a certified program about the delay, the reason(s) for the delay, the expected submission date, and the measures the certified program will take to prevent recurrent delays.

119. Finally, as explained in the *NDBEDP 2015 NPRM,* the Commission expects that, when a claim is submitted with sufficient documentation and does not require further clarification, the claim will be processed within 30 days, and that claims requiring additional documentation or clarification will be processed generally within 60 days. While noting such expectation, the Commission recognizes that the NDBEDP and TRS Fund Administrators may need flexibility to alter these time frames in order to address unique issues that arise. The Commission further notes that early payment of reimbursement claims generally is not possible because payments from the TRS Fund involve schedules that are guided by principles of fiscal management and internal controls.

120. *Documentation of Reimbursement Claims.* During the NDBEDP pilot program, certified programs have been required to submit documentation to support their claims for reimbursement of the reasonable costs of equipment and related expenses (including maintenance, repairs, warranties, refurbishing, upgrading, and replacing equipment distributed to consumers), assessments, equipment installation and consumer training, loaner equipment, state outreach efforts, and program administration. During the pilot program, the TRS Fund Administrator has provided certified programs with instructions, guidance, and examples of documentation needed to support reimbursement claims. The Commission will continue to require certified programs to support their reimbursement claims with documentation, a reasonably detailed explanation of incurred costs, and a declaration as to the accuracy and truthfulness of the claims they submit. This mechanism holds programs accountable.

121. In addition to documentation routinely required, the Commission will continue to permit the NDBEDP Administrator or the TRS Fund Administrator to require programs to provide supplemental information needed to verify particular claims. The Commission concludes that the process now in place, where the TRS Fund Administrator and the NDBEDP Administrator alert certified programs about the need for additional documentation or any inconsistencies or errors, successfully has reduced the amount of reimbursement claims denied to an almost negligible amount per year. This process has resulted in the temporary suspension or withholding of a payments pending resolution of disputed matters, and denied reimbursement claims when necessary. Under current rules, any certified program is permitted to appeal the denial of a reimbursement claim to the Commission. 47 CFR 1.101 through 1.117.

122. The Commission will allow modification to the reimbursement requirements somewhat to provide greater flexibility for the NDBEDP Administrator and the TRS Fund Administrator and to allow some easing of the documentation burden on state programs, where appropriate. The Bureau and the NDBEDP Administrator, in consultation with OMD, and the TRS Fund Administrator, may modify the claim filing instructions issued by the TRS Fund Administrator, as necessary to achieve these goals. To further address commenters' concerns about the level of detail and documentation required for reimbursement and to streamline reimbursement claim and reporting requirements, this determination will take place in

conjunction with the development of the centralized database.

123. *Administrative Costs.* Under the Commission's rules for the NDBEDP pilot program, certified programs have been compensated for administrative costs up to 15% of their total reimbursable costs for equipment and related services. In the NDBEDP pilot program, the Commission defined administrative costs to include reporting requirements, accounting, regular audits, oversight, and general administration.

124. The Commission continues to believe that a 15% cap on administrative costs is reasonable for the permanent program. For clarity, the Commission defines these costs to be indirect and direct costs that do not fit into specifically designated categories, such as outreach or equipment and related services, but that are necessary for the operation of a program. For example, this could include costs for management and administrative support personnel, facilities, utilities, supplies, as well as the administration of oversight requirements, including reports, accounting and audits. Given support in the record, the Commission adopts its proposal to assess the 15% administrative cost cap against each certified program's annual funding allocation, rather than the total of its reimbursable costs for equipment and related services. In addition, the Commission notes that certified programs may petition for a waiver of the administrative cost cap rule, which the Bureau may consider consistent with the Commission's general waiver standard of a showing of good cause and a finding that particular facts make compliance with the rule inconsistent with the public interest. Grant of such a waiver would not, however, permit the program's total reimbursement to exceed its overall funding allocation. Finally, the Commission notes its expectation that the establishment of a centralized database will facilitate compliance with reporting and reimbursement claim requirements, addressing concerns about the sufficiency of the 15% cap to cover necessary administrative costs. As a number of commenters suggest, a centralized database is likely to produce administrative cost savings for programs that currently have to maintain their own, or pay for alternative databases to perform these functions. The Commission believes that all of these measures, taken together, will help to alleviate burdens that the 15% administrative cap may have imposed during the pilot program.

Program Oversight and Reporting

125. *Overview.* Under the pilot program, the NDBEDP has been overseen by an NDBEDP Administrator, a Commission official designated by CGB. Every six months, certified programs are required to report to the Commission detailed information about program activities, which is subject to review by the NDBEDP Administrator and other Commission staff in order to assess the effectiveness of the program, ensure the integrity of the TRS Fund, and inform the Commission's policymaking.

126. As discussed below, the Commission affirms the current responsibilities of the NDBEDP Administrator. In addition, the Commission sets overarching performance goals and initial performance measures for the permanent NDBEDP to provide for the efficient assessment of the program's progress in meeting the performance goals. The Commission further directs the Bureau and the NDBEDP Administrator to, as necessary, develop more detailed elaboration of these performance measures, which shall be informed by information contained in the reports submitted by the certified programs. In addition, the Commission streamlines the NDBEDP's reporting requirements so they are consistent with the new performance measures, as well as to improve program oversight and eliminate unnecessary reporting burdens.

127. The Commission directs the establishment of a centralized NDBEDP reporting database, to be used for reporting purposes and for the generation of reimbursement claims by programs that choose to use it for that purpose. The Commission directs the Bureau and the NDBEDP Administrator to accomplish this task in coordination with OMD and its Chief Information Officer (CIO) and, as appropriate, with certified NDBEDP programs that will use or access the database. From the $10 million available annually from the TRS Fund for the NDBEDP, the Bureau may allocate an amount necessary for the development and maintenance of the centralized database. The Bureau and the NDBEDP Administrator shall also coordinate with the appropriate Commission offices to ensure compliance with applicable privacy and security requirements. For example, the Commission currently complies with the requirements of the Privacy Act with respect to the protection of PII that the Commission receives in connection with the NDBEDP pilot program. The Commission will modify the System of Records Notice for the NDBEDP and take other measures, as necessary and appropriate, with respect to the adoption of final rules for the permanent NDBEDP and the development of the centralized database. *See* Privacy Act System of Records, published at 77 FR 2721, January 19, 2012 (FCC/CGB–3 NDBEDP System of Records Notice).

128. *Program Oversight Responsibilities.* Designated by the Bureau, the NDBEDP Administrator has been responsible for, among other things, reviewing certification applications, allocating NDBEDP funding, reviewing reimbursement claims to determine consistency with the Commission's rules, maintaining the NDBEDP Web site, resolving stakeholder issues, and serving as the Commission's point of contact for the NDBEDP. The TRS Fund Administrator has reviewed reimbursement claims for accuracy and released funds from NDBEDP fund allocations for distributed equipment and related services, including outreach efforts.

129. The Commission directs that the responsibilities listed above should continue to reside with the Bureau. In addition, the Commission requires the NDBEDP Administrator to coordinate with OMD regarding funding decisions. The Bureau and the NDBEDP Administrator should continue to determine annual funding allocations, including reallocations that may need to be made during a Fund year, for each of the NDBEDP-certified programs. In addition, the Commission directs that the NDBEDP Administrator should continue the practice of conducting qualitative reviews to ensure that claims for reimbursement for equipment and services are consistent with NDBEDP rules, and the TRS Fund Administrator should continue to conduct quantitative reviews to determine that the requested dollar amounts are accurate, prior to making payments to certified entities. The Commission believes that this process will continue to fulfill its objectives to meet the needs of deaf-blind consumers in accordance with its policies, comply with Government-wide financial requirements, and achieve efficiencies in the NDBEDP.

130. In addition to delegating policy oversight of the permanent NDBEDP to the Bureau, the Commission delegates financial oversight of this program to the Managing Director and directs the Managing Director to work in coordination with the Bureau to ensure that all financial aspects of the program have adequate internal controls. These duties reasonably fall within OMD's current delegated authority to ensure

that the Commission operates in accordance with federal financial statutes and guidance. Such financial oversight must be consistent with TRS Orders, rules, and Commission policies to the extent these are applicable to the NDBEDP, and OMD is required to consult with CGB on any issue that potentially could impact the availability, provision, and continuity of services under the program.

131. *Performance Goals and Measures.* The *NDBEDP 2015 NPRM* noted that the Commission has a responsibility to ensure these funds are spent efficiently and effectively. The Commission therefore proposed the following performance goals for the NDBEDP: (1) Ensuring that the program effectively increases access to covered services for the target population; (2) ensuring that the program is administered efficiently; and (3) ensuring that the program is cost-effective. Because the Commission finds the proposed goals accurately reflect the statutory purpose and the goals and objectives stated in the Commission's strategic plan, it adopts the proposed performance goals, but revises these to combine the closely-related proposed goals 2 and 3. The revised goals are now: (1) Ensuring that the program effectively increases access to covered services by the target population; and (2) ensuring that the program is administered and implemented efficiently and cost-effectively. The Commission believes that these two goals are in harmony with each other. Specifically, to the extent that the $10 million authorized annually for the NDBEDP is spent in a manner that is maximally efficient and cost-effective, such expenditure should also maximize access to covered services for the target population.

132. In establishing performance measures to assess progress relative to these goals, the Commission is mindful of the U.S. Government Accountability Office's (GAO) advice that performance measures for each goal "should be limited to the vital few." GAO, *Executive Guide: Effectively Implementing the Government Performance and Results Act* at 25 (1996). This guidance seems especially appropriate here, given the limited funding available to the NDBEDP programs and their need to focus expenditures on program operations to the maximum extent practicable.

133. The Commission concludes that program performance in providing effective, cost-effective, and efficient service to the target population should be measured based on a few vital metrics that may be reflected in the following data: (1) Number of clients served, broken down by new versus existing program participants, and client characteristics that are relevant to the national program's performance and costs; (2) information about the equipment distributed, including costs; (3) costs and hours consumed for assessments, training, and follow-up visits (*e.g.,* in connection with repair or upgrade of equipment); and (4) promptness of service response. Much of the data required to support each of these measures is either relatively easy to obtain or is already being collected for reporting and reimbursement purposes. The Commission recognizes that there could be benefits as well in assessing improvements in clients' access to communications services through metrics that analyze improvements in their ability to participate in life activities, such as employment and education. However, the Commission concludes that collecting and effectively analyzing such data would prove burdensome. Observed changes in consumer behavior at completion of training may be ephemeral or subjective, and afterwards, consumers who receive equipment are under no obligation to maintain contact with the programs in which they participated. Thus, while the Commission will continue to undertake efforts to determine effective outcomes that result from successful participation in the NDBEDP through outreach and other efforts, it concludes that imposing requirements for certified programs to gather this information on a regular basis would unduly burden their limited resources under this program.

134. The Bureau and the NDBEDP Administrator are directed to implement metric parameters based on the above guidance. In this way, measures can be "tweaked" as necessary to reflect insights gained from additional oversight experience, including insights gained in implementing the centralized reporting database. Given the size of the program, and the diversity of its recipients, program data may skew based on circumstances of particular regions or particular clients, and may require further inquiry, which prescribes against adopting formulaic metrics. The Commission therefore authorizes CGB to determine the most effective method for gathering the necessary information and weighing these metrics to evaluate program performance. The Commission expects that, at a minimum, the performance measures will serve as tools to develop recommendations for programs on how to increase cost-effectiveness, and will inform the Commission's program policy decisions. The data collected for these performance measures should also enhance the Commission's ability to develop baseline information and benchmarks for future assessments.

135. *Reporting Requirements.* Under the NDBEDP pilot program reporting rules, programs have been required to report information, every six months, about the following: Equipment recipients and the individuals who attest that the recipients are deaf-blind; equipment distributed; the cost, time, and other resources allocated to related services and support (outreach, assessment, installation, training, maintenance, repair, and refurbishment of equipment); the amount of time between assessments and equipment delivery; the types of state outreach undertaken; the nature of equipment upgrades; denied equipment requests and complaints received; and the number of qualified applicants on waiting lists to receive equipment. After considering the comments received, the Commission amends its rules to set forth more generally the categories of information that must be reported, and it directs the Bureau, in consultation with the NDBEDP Administrator, OMD, the TRS Fund Administrator, and the certified programs, as appropriate, to prepare reporting instructions setting forth the specific data and items of information that are needed to assess program performance, to be provided in guidance delivered to the certified programs upon establishment of the NDBEDP database.

136. The Commission is mindful of the need to ensure that information collection requirements do not unnecessarily burden NDBEDP programs whose resources for program administration are quite limited. The Commission further believes that its original objectives for requiring programs to report certain information under the pilot program—such as detailed information about each item of equipment distributed—have now been met. For example, detailed reporting on the particular items of equipment distributed was needed to inform the Commission about the communication equipment needs of the deaf-blind community for the permanent program. While this is important information to collect and maintain in program records—and may also be necessary for the submission of reimbursement claims—the same level of detail about every piece of equipment distributed under the pilot program may not be necessary for the permanent program, and in fact such detailed reporting could unnecessarily burden program

operations without significantly aiding performance measurement or the prevention of fraud, waste, and abuse. On the other hand, certain items of information not currently reported may be needed to measure program performance.

137. Where data must already be reported for claim reimbursement, unnecessary duplication of effort should not be required. For this purpose, below, the Commission directs the establishment of a centralized database for the submission of program data to the Commission. For example, effective upon activation of the centralized NDBEDP database, the Commission expects that a program choosing to use the database for claims reimbursement as well as semiannual reporting will not be required to enter client-specific information twice.

138. To provide the flexibility needed to effectively assess the permanent program's performance, the Commission adopts rules for the permanent program that set forth the categories of required information. The Commission directs the Bureau to delineate the specific data points required in the instructions on data reporting and database use issued by the NDBEDP Administrator. For example, to eliminate unnecessary information collection burdens, it may not be necessary to report detailed information about each professional attesting to an individual's eligibility. While the Commission believes that such details should be retained in program records, it may be sufficient to obtain this information upon request, as needed, through the NDBEDP Administrator or TRS Fund Administrator. This approach will allow the precise information fields required in each category to be adjusted and streamlined over time, based on experience with program oversight and creation of the centralized NDBEDP database. This flexible approach will also enable adjustment of reporting requirements to harmonize with future refinement of performance metrics. For this purpose, the Commission requires reporting of information in each of the following categories, and allows the Bureau to supplement these categories as necessary to achieve the performance objectives of the program, and to prevent fraud, waste and abuse: (1) Each client's identity and other relevant characteristics; (2) information about the equipment provided, including costs; (3) the cost and time for client assessments, installation and training, and maintenance and repair; (4) information about local outreach undertaken, including costs; and (5) promptness of service. Certified programs will be required to report the specific information set forth in instructions and guidelines issued by the Bureau in each category listed above or other categories deemed necessary by the Bureau, until superseded by new reporting instructions and guidance.

139. The Commission retains the requirement to report the identity of each individual who receives equipment because it believes this is necessary to enable correct analysis of program costs and efficacy. In addition, reporting of identity information may assist in analyzing and tracking changes that occur when one certified program is replaced by another or when a client moves to another state. In this regard, reporting of identity information may help prevent fraud, abuse, and waste (*e.g.,* where equipment is improperly provided to the same individual by more than one state program). Given the small size of the population served, however, it may not be necessary to collect fine-grained identity data such as date of birth. The rule the Commission adopts today allows CGB and the NDBEDP Administrator to exercise flexibility in determining the level of identification detail that should be collected. Given the sensitivity involved and the heightened need for security necessitated by the collection of PII, the Commission cautions CGB and the NDBEDP Administrator to limit the level of detail of the PII collected to that needed for effective program oversight.

140. *Frequency of Reporting.* The Commission believes that regular reporting is necessary to ensure that certified programs maintain and keep current NDBEDP-related data and to provide accurate snapshots of that data consistently across all certified programs for oversight and evaluation purposes. The Commission will, therefore, retain the requirement for certified programs to submit reports every six months.

141. *Report Certification.* Under the NDBEDP pilot program, the Commission requires certified programs to submit a certification with each report executed by "the chief executive officer, chief financial officer, or other senior executive of the certified program, such as a director or manager, with first-hand knowledge of the accuracy and completeness of the information provided in the report." In the *NDBEDP 2015 NPRM,* the Commission proposed to amend the certification as follows to clarify that the "affairs" of the certified program means the "business activities conducted pursuant to the NDBEDP":

> I swear under penalty of perjury that I am (name and title), an officer of the above-named reporting entity, and that the entity has policies and procedures in place to ensure that recipients satisfy the NDBEDP eligibility requirements, that the entity is in compliance with the Commission's NDBEDP rules, that I have examined the foregoing reports and that all requested information has been provided, and all statements of fact are true and an accurate statement of the business activities conducted pursuant to the NDBEDP by the above-named certified program.

The Commission adopts the continued requirement for this report certification, as amended. Likewise, the Commission makes this language change to its reimbursement claim certification, as proposed.

142. *NDBEDP Centralized Database for Reporting and Reimbursement.* The Commission concludes that the benefits of a centralized database would be significant and outweigh any disadvantages. A centralized database will allow the efficient retrieval of data in a uniform format from a single system. This, in turn, will enable the Bureau, OMD, the NDBEDP Administrator and the TRS Fund Administrator to oversee the program more effectively and efficiently; analyze the performance of certified programs; detect patterns indicating potential fraud, waste, or abuse; and provide aggregate national program statistics to inform the Commission's future policy deliberations for the NDBEDP. In addition, a centralized database will improve the accuracy of reported data and prevent abuse of the program by, *e.g.,* a single consumer applying for assistance in multiple states. State-operated databases, by their nature, cannot address these important national oversight functions. A centralized database will enable programs to avoid duplicative submission of identical data for both reimbursement and reporting purposes and may allow for more effective service to clients migrating to other states and clients that are transferred to newly certified entities. A centralized database will also permit cost savings for individual states that currently incur their own expenses to organize and submit required reports. Finally, the Commission finds no convincing evidence in the record showing that the cost incurred by programs to enter data in a centralized database would be significantly greater than the cost of reporting data in the manner currently required for the pilot program.

143. For all of these reasons, the Commission directs the Bureau, in coordination with the NDBEDP Administrator, OMD and its CIO, to establish a centralized database for the

submission of program data to the Commission. The Bureau, OMD, and its CIO are required to ensure that the database will incorporate robust privacy and data security best practices in its creation and operation. Further, the database must comply with all applicable laws and Federal government guidance on privacy and security and other applicable technology requirements such as those mandated by the Federal Information Security Management Act (FISMA) and the Privacy Act. As with other databases the Commission has created to manage its programs, this database must be developed in accordance with the National Institute of Standards and Technology (NIST) guidance for secure, encrypted methods for obtaining, transmitting, storing, and disposal of program beneficiary information and certified program information. The centralized database also must have subscriber notification procedures in the event of a breach that are compliant with Department of Homeland Security (DHS) and OMB guidance.

144. Upon its completion, all certified programs will be required to use the centralized database to file their semiannual program reports. As further discussed below, programs will be allowed, but not required, to also use the centralized database for generating reimbursement requests, which is expected to eliminate the duplication of effort involved in filing identical data for both reimbursement and reporting purposes. The Commission also recognize that some certified programs have invested in the development of their own databases for tracking and reporting NDBEDP-related activities. To be clear, nothing in document FCC 16–101 prevents individual programs from continuing to use state-specific data bases for their own tracking purposes. The Commission only requires that the required report data be entered in a national database so that it can be effectively aggregated nationally for the essential purposes described above. Therefore, to reduce any costs that may be associated with entering data in both a state-specific and a national database, the Commission directs that the Bureau, OMD and its CIO, and the NDBEDP Administrator consider the use of tools that will allow certified programs to submit data in an aggregate manner.

145. *NDBEDP Centralized Database for Reporting and Reimbursement—Use of the Centralized Database for Reimbursement Claims.* The Commission is persuaded that using the centralized database to generate reimbursement claims should be permissive. The Commission believes that both efficiency and accuracy can be enhanced when the data required for reporting and reimbursement are submitted and managed within the same system; however, it also recognizes that some programs reasonably prefer to develop reimbursement requests within an internal system that is used by the certified entity for other purposes. In order to facilitate the ability of programs to use the centralized database for both reimbursement and reporting, the Commission directs the Bureau and the NDBEDP Administrator to coordinate with OMD and its CIO, and to consult with certified programs so that the centralized database can track all of the information needed to enable reports to be generated and submitted electronically, and to generate reimbursement claims.

146. The Commission concludes that the establishment of the centralized database does not by itself relieve certified programs of the requirements to retain records and document compliance with Commission rules. The Commission does not envision that the database will be a repository for all records that a certified program must retain or chooses to retain to demonstrate compliance with the Commission's requirements governing the NDBEDP. Certified programs will be held responsible for complying with documentation and record retention requirements but will be otherwise be free to maintain records outside the database in whatever format they deem appropriate, as long as such records are reproducible upon request from the Bureau, the NDBEDP Administrator, OMD, TRS Fund Administrator, Commission, or law enforcement.

147. *NDBEDP Centralized Database for Reporting and Reimbursement—Inclusion and Protection of PII in the Centralized Database.* The Commission concludes that the inclusion of certain PII is necessary because it will assist in analyzing and tracking changes that occur when one certified program is replaced by another or when a client moves to another state, may facilitate the transfer of client information when a client moves to another state, and may help detect possible fraud, waste, and abuse. Further, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) does not pose any major impediment to the inclusion of PII in the centralized database. Public Law 104–191, 100 Stat. 2548 (1996). The Commission is not a "covered entity" for purposes of HIPAA and therefore is not subject to the same HIPAA standards applicable to such entities. Rather, the Commission is a "health oversight agency," *i.e.*, "an agency or authority of the United States . . . that is authorized by law to oversee . . . government programs in which health information is necessary to determine eligibility or compliance." 45 CFR 164.501. To the extent that any certified program is a "covered entity" subject to HIPAA requirements, HIPAA permits the program to "disclose protected health information to a health oversight agency for oversight activities authorized by law." 45 CFR 164.512(d)(1). Therefore, to the extent that certified programs are subject to HIPAA, disclosure of protected health information to the Commission for purposes of administering the NDBEDP does not conflict with HIPAA. Despite this categorization, it remains ultimately the responsibility of any HIPAA covered entity to ensure that it has the proper authorization to transmit health information to another individual or entity and is in full compliance with any applicable provisions of HIPAA and other privacy laws. A certified program that is or may be a covered entity for purposes of HIPAA may seek guidance about its obligations under HIPAA from the U.S. Department of Health and Human Services, Office for Civil Rights.

148. While the Commission will not exclude PII from the centralized database, privacy and security are key considerations that it must consider in the collection and maintenance of this information. Accordingly, the Commission directs the Bureau and the NDBEDP Administrator to limit the amount of PII collected to that needed for effective program oversight. The database administrator should be tasked with establishing procedures, protocols, and other safeguards to ensure database access is in fact restricted according to the Commission's guidelines to protect any PII in the centralized database. Additionally, the Commission requires that access to the centralized NDBEDP database be limited to authorized entities for purposes that further the effective and efficient operation and administration of the NDBEDP and compliance with the Commission's rules. The database administrator shall allow certified programs to access and use the database only for the reasons specified in this part of document FCC 16–101, and to determine whether information previously entered in the database is correct and complete. Moreover, the Commission specifically prohibits a certified program from accessing PII about clients of another certified program, except as expressly authorized by the NDBEDP Administrator, pursuant to appropriate safeguards, where necessary to ensure

continuity of service to such clients or for the efficient administration of the program.

149. The Commission concludes that all access to the centralized database should be restricted to secure means of communication and be subject to a strict password policy to help protect the security of the database. To the extent possible and appropriate, certified programs should be informed specifically about how data will be secured. As in the pilot program, the Bureau and the NDBEDP Administrator will coordinate with OMD and the CIO to ensure compliance with Government-wide statutory and regulatory guidance as to the Privacy Act of 1974, FISMA, and any other applicable privacy and security requirements.

150. *NDBEDP Centralized Database for Reporting and Reimbursement—Access to Other Programs' Data and Aggregate Data.* The Commission concludes that, in general, PII and other data entered by a program should be available only to Commission staff and contractors that are charged with NDBEDP oversight responsibilities, such as the TRS Fund Administrator. In addition, such information can be obtained by personnel authorized by the specific certified program that provided the data (or its successor), pursuant to authorization procedures established by the Bureau, the NDBEDP Administrator, OMD and its CIO. In addition, the Bureau, the NDBEDP Administrator, and OMD and its CIO will determine under what circumstances and procedures certified programs may obtain access to aggregated, non-PII about other state programs or about the NDBEDP as a whole.

151. *NDBEDP Centralized Database for Reporting and Reimbursement—Database Administration.* Although several commenters recommend that the Commission invite entities via a public notice to submit applications to develop and maintain the database, the Commission concludes that the complexity of the task and the sensitivity of the issues to be addressed, including matters of privacy and security, demand a more structured process for making this selection. The Commission further concludes that the centralized database should be built and operated under the direct supervision of the Commission by an entity that has demonstrated skills in the development and management of an existing system of similar scope and complexity. The Commission directs the Bureau, in coordination with the Commission's Managing Director and its CIO, the NDBEDP Administrator, and others within the Commission, as may be appropriate, to determine whether the database should be built using internal Commission resources, or via an interagency agreement, a competitive procurement, or a modification of an existing agency contract. As part of this process, the Bureau, in consultation with the NDBEDP Administrator and such Commission offices, will identify the data elements, structure of the database, and other implementation details. To ensure efficient management and effective use of NDBEDP data in response to changes that occur over time, the Commission further directs the Bureau and the NDBEDP Administrator, in conjunction with the Managing Director and CIO, to initiate or direct such modifications as needed.

152. *Audits and Record Retention.* During the pilot program, certified programs have been required to engage an independent auditor to perform annual audits designed to detect and prevent fraud, waste, and abuse, to make their NDBEDP-related records available for Commission-directed review or audit, and to submit documentation, upon request, demonstrating ongoing compliance with the Commission's rules. For purposes of promoting greater transparency and accountability, the NDBEDP pilot program rules also have required certified programs to retain all records associated with the distribution of equipment and provision of related services for two years following the termination of the pilot program.

153. The Commission will retain the requirement for certified programs to conduct annual audits in the permanent NDBEDP because the Commission concludes that annual audits are needed to ensure the fiscal integrity of the program. As the Commission proposed in the *NDBEDP 2015 NPRM,* and as supported in the record, the Commission clarifies that the program audit standard is comparable to that required for OMB Circular A–133 audits and not a more rigorous audit standard, such as a forensic standard. Specifically, as stated in the Bureau's 2012 guidance, the annual independent audit must include a traditional financial statement audit, as well as an audit of compliance with the NDBEDP rules that have a direct and material impact on NDBEDP expenditures and a review of internal controls established to ensure compliance with the NDBEDP rules. *See NDBEDP FAQ* 25. Compliance areas to be audited must include, but are not limited to, allowable costs, participant eligibility, equipment distribution, and reporting. The audit report must describe any exceptions found, such as unallowable costs, lack of participant eligibility documentation, and missing reports, and must include the certified program's view as to whether each compliance exception is material and whether any internal control deficiencies are material. If the auditor finds evidence of fraud, waste, or abuse, the auditor must take appropriate steps to discuss it with the certified program management and the Commission and report the auditor's observations as required under professional auditing standards. *See NDBEDP FAQ* 26.

154. The record also supports the Commission's proposals to continue to require certified programs to submit to an audit arranged by the Commission or its delegated authorities, and for any certified program that fails to fully cooperate in a Commission-arranged audit to be subject to an automatic suspension of NDBEDP payments until it agrees to the requested audit. While the Commission has not undertaken any audits of certified programs during the pilot program, to date, it concludes that it is fiscally prudent to continue to require certified programs to submit to such audits. In addition, the Commission finds that this automatic suspension policy will promote transparency, accountability, and assure the integrity of the TRS Fund.

155. Further, the Commission will retain the provisions in the pilot program rules requiring certified programs to document compliance with all Commission requirements governing the NDBEDP, retain all records associated with the distribution of equipment and provision of related services under the NDBEDP, including records that support reimbursement claims and reports, and, upon Commission request, to submit documentation demonstrating ongoing compliance with the Commission's rules. As proposed, the Commission clarifies that evidence that a state program may not be in compliance with those rules is not a prerequisite to such a documentation request. As the Commission noted in the *NDBEDP 2015 NPRM,* record retention is necessary to resolve inquiries and complaints, as well as questions about reimbursement claims or compliance with NDBEDP rules. The Commission affirms that this requirement will help to prevent and detect fraud, waste, and abuse and to ensure compliance with the NDBEDP rules. Certified programs may maintain records in whatever format they deem appropriate, as long as such records are reproducible upon request from the Bureau, the NDBEDP Administrator, OMD, the TRS Fund Administrator, Commission, or law enforcement.

156. Finally, the Commission adopts the proposal to require record retention for five years, a period that is supported by a number of commenters and is consistent with the Commission's TRS and Lifeline rules. Extending the requirement to five years will help to ensure compliance with program requirements and enable the Commission to exercise appropriate oversight and administration of the permanent NDBEDP on an ongoing basis.

157. *Whistleblower Protections.* In the *NDBEDP 2015 NPRM,* the Commission proposed to retain the whistleblower protections in the Commission's rules for the permanent NDBEDP. Those protections require certified programs to permit individuals to disclose to appropriate officials, known or suspected rule violations or any other activity the individual believes to be unlawful, wasteful, fraudulent, or abusive, or that could result in the improper distribution of equipment, provision of services, or billing to the TRS Fund. Certified programs must include these whistleblower protections with the information they provide about the program in any employee handbooks or manuals, on their Web sites, and in other appropriate publications. Because the Commission continues to believe that these whistleblower protections help to prevent and detect fraud, waste, and abuse, the Commission will retain these requirements for the permanent NDBEDP.

158. *Complaints.* In the *NDBEDP 2015 NPRM,* the Commission proposed that: (1) Informal complaints containing specified information will be forwarded to the certified program for a response; (2) if the program's response does not resolve the complaint, the Commission will make its own disposition of the complaint and inform both parties; (3) if unsatisfied with the result, the complainant may file a formal complaint with the Commission; and (4) the Commission may also conduct such inquiries and proceedings as it deems necessary to enforce the NDBEDP requirements.

159. The Commission hereby adopts the proposed complaint procedures, which are generally supported by the commenters. Under these procedures, informal complaints related to the NDBEDP will be processed by the Bureau's Disability Rights Office (DRO) complaints division and the NDBEDP Administrator. Informal complaints may be transmitted to the Commission via any reasonable means, such as by letter, fax, telephone, TTY, or email. When the Commission's Consumer Help Center is updated, informal complaints may also be transmitted online. This informal complaint process is intended to facilitate resolution of complaints between the parties whenever possible. As noted, if the consumer is not satisfied with the certified program's response and the DRO's disposition of an informal complaint, the consumer may file a formal complaint.

Final Regulatory Flexibility Certification

160. The Regulatory Flexibility Act (RFA) requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." *See* 5 U.S.C. 605(b). The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." *See* 5 U.S.C. 601(6). In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. *See* 5 U.S.C. 601(3). A "small business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). 15 U.S.C. 632.

161. In 2011, pursuant to section 105 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), which adds section 719 of the Act, as amended, 47 U.S.C. 620, the Commission established the National Deaf-Blind Equipment Distribution Program (NDBEDP) as a pilot program. Under the NDBEDP, the Commission provides up to $10 million annually from the Interstate Telecommunications Relay Service Fund (TRS Fund) to support programs approved by the Commission for the distribution of equipment designed to make telecommunications service, Internet access service, and advanced communications services (covered services) accessible to low-income individuals who are deaf-blind. 47 U.S.C. 620(a), (c). A person who is "deaf-blind" has combined vision and hearing loss, as defined in the Helen Keller National Center Act. 47 U.S.C. 620(b); 29 U.S.C. 1905(2). The Commission authorized up to 53 entities to be certified to participate in the pilot program—one entity for each state, plus the District of Columbia, Puerto Rico, and the U.S. Virgin Islands—collectively referred to as "certified programs" or "state programs." Through the pilot program, thousands of low-income individuals who are deaf-blind have received equipment and training on how to use that equipment to access covered services. The Commission extended the pilot program to June 30, 2017. In document FCC 16–101, the Commission adopts rules to continue the NDBEDP as an ongoing, permanent program.

162. In the *NDBEDP 2015 NPRM,* the Commission concluded that the proposed rules would not have a significant economic impact on the entities that might be affected by the proposed rules because the Commission would reimburse all of those entities for all of their NDBEDP expenses from the TRS Fund, up to their annual funding allocations. The Commission added that the changes it was proposing were of an administrative nature, intended to reduce the administrative burden on those entities, and would not have a significant economic impact on small entities. If there were to be an economic impact on small entities as a result of the proposals, however, the Commission expected the impact to be a positive one. The Commission therefore certified, pursuant to the RFA, that the proposals in the *NDBEDP 2015 NPRM,* if adopted, would not have a significant economic impact on a substantial number of small entities. No comments were filed in response to that Initial Regulatory Flexibility Certification.

163. Document FCC 16–101 extends the NDBEDP to include the U.S. territories of American Samoa, Guam, and the Northern Mariana Islands. As a result, up to 56 entities may be certified to participate in the permanent NDBEDP.

164. Document FCC 16–101 provides that current state programs and other entities that want to participate in the permanent NDBEDP must seek certification for a five-year period and every five years thereafter. If a current program wants to renew its certification or another entity wants to apply for certification, it must, one year prior to the expiration of the five-year certification period, submit an application explaining why it is eligible to participate in the NDBEDP.

165. To help address a persistent shortage of qualified trainers to provide individualized training to consumers on how to use NDBEDP-distributed equipment, document FCC 16–101 permits certified programs to use up to 2.5% of their annual funding allocations, or approximately $250,000 annually for all certified programs, for the costs of train-the-trainer activities and programs during the first five years

of the permanent program and directs the Consumer and Governmental Affairs Bureau (the Bureau) to assess the need for continuing such funding beyond this period.

166. The NDBEDP pilot program rules require all certified programs to submit reports about their NDBEDP activities to the Commission every six months. Document FCC 16–101 finds that continuing to receive this data will be useful to the permanent program as well, because regular reporting is necessary to ensure that certified programs maintain and keep current NDBEDP-related data and to provide accurate snapshots of that data consistently across all certified programs for oversight and evaluation purposes. At the same time, document FCC 16–101 sets forth generally the categories of required information and directs the Bureau to determine the specific items of information to be reported, which the Bureau may adjust and streamline over time and in conjunction with the planning and implementation of the centralized database, which is discussed next. Streamlining reporting requirements will reduce the administrative burden of the certified programs participating in the permanent NDBEDP.

167. In document FCC 16–101, the Commission directs the Bureau, in coordination with the appropriate Commission offices and other stakeholders, to establish a centralized database that would assist state programs to comply with the reporting and reimbursement claim requirements under the permanent NDBEDP. First, upon completion of the database, all state programs would be required to submit information about their NDBEDP-related activities into the database and use the database to generate reports for submission to the Commission every six months. Second, all state programs would be able to submit data regarding their NDBEDP-related expenses into the database and generate reimbursement claims for submission to the TRS Fund Administrator. State programs currently maintain their own databases or pay for alternative databases to perform these functions. Submission of data into a centralized database that is established and maintained by the Commission to perform these functions would likely reduce the administrative costs for these state programs. Collecting data in a uniform manner from the certified programs would also improve oversight and administration of the NDBEDP by enabling the Commission to aggregate and analyze that data.

168. Under the Commission's rules for the NDBEDP pilot program, certified programs are compensated for 100% of their expenses, up to each program's annual allocation set by the NDBEDP Administrator, a Commission official designated by the Bureau. Within this annual allocation amount, the Commission did not establish any caps for costs associated with state and local outreach, assessments, equipment, installation, or training, but did establish a cap for administrative costs. The Commission defined administrative costs to include reporting requirements, accounting, regular audits, oversight, and general administration. Programs may be compensated for administrative costs up to 15% of their total reimbursable costs (*i.e.,* not their total allocation) for equipment and related services actually provided. Document FCC 16–101 amends the rules to reimburse certified programs for administrative costs up to 15% of their annual allocation, regardless of the amount of equipment and related services they actually provide. Document FCC 16–101 also recognizes that during the first three years of the NDBEDP pilot program, some programs' administrative costs exceeded the allowable 15% reimbursable amount. As discussed further above, document FCC 16–101 calls for the creation of a centralized database to be used by certified programs for generating reports and reimbursement claims, which is likely to produce administrative cost savings for programs that maintain their own databases or pay for alternative databases to perform these functions. Certified programs may also petition for and the Bureau may grant a waiver of the administrative cost cap rule upon a showing of good cause and a finding that particular facts make compliance with the rule inconsistent with the public interest. These measures, taken together, may alleviate the administrative burdens for certified programs operating in the permanent NDBEDP by making it easier to operate within the 15% administrative cost cap.

169. During each year of the pilot program, the Commission has set aside $500,000 of the $10 million available annually to perform national outreach to promote the NDBEDP. Given the significant progress in publicizing the NDBEDP during the pilot program, document FCC 16–101 continues to fund national outreach efforts, but at a reduced level of $250,000 for each of the first five years of the permanent program, and directs the Bureau to determine the extent to which national outreach efforts and funding should be continued thereafter and whether to extend Perkins's national outreach services for another five-year period or to invite entities, via a public notice, to submit applications to conduct these efforts.

170. During the pilot program, certified programs have been required to engage an independent auditor to perform annual audits designed to detect and prevent fraud, waste, and abuse, as well as to submit to audits arranged by the Commission or its delegated authorities. Document FCC 16–101 continues those audit requirements and also requires each certified program to submit a copy of its annual audit to the NDBEDP Administrator.

171. The Commission finds that the rules adopted in document FCC 16–101 will not have a significant economic impact on the entities that are part of the NDBEDP because the Commission will reimburse these entities for all of their NDBEDP expenses from the TRS Fund, up to their annual funding allocations. The rules adopted in document FCC 16–101 are administrative in nature, intended to reduce the administrative burden on certified programs, increase program transparency, benefit equipment recipients, improve the Commission's administration and oversight of the NDBEDP, and will not have a significant economic impact on a substantial number of small entities. To the extent that there is an economic impact on small entities as a result of the rules adopted in document FCC 16–101, the Commission believes the impact to be a positive one.

172. The Commission therefore certifies, pursuant to the RFA, that the rules adopted in document FCC 16–101 will not have a significant economic impact on a substantial number of small entities.

173. The Commission sent a copy of document FCC 16–101 in a report to Congress and the Governmental Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

Pursuant to sections 1, 4(i), 4(j), and 719 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), and 620, document FCC 16–101 is ADOPTED and the Commission's rules are hereby AMENDED.

Section 64.610 of the Commission's rules will remain in effect until after all reports have been submitted, all payments and adjustments have been made, all wind-down activities have been completed, and no issues with the regard to the NDBEDP pilot program remain pending.

The Commission will send a copy of document FCC 16–101, including a copy of this final certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Individuals with disabilities, Telecommunications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

For the reasons stated in the preamble, the Federal Communications Commission amends Title 47 of the Code of Federal Regulations as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254(k); 403(b)(2)(B), (c), Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 227, 228, 254(k), 616, 620, and the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, unless otherwise noted.

■ 2. Add subpart GG to read as follows:

Subpart GG—National Deaf-Blind Equipment Distribution Program

Sec.
64.6201 [Reserved]
64.6203 [Reserved]
64.6205 [Reserved]
64.6207 Certification to receive funding.
64.6209 Eligibility criteria.
64.6211 Equipment distribution and related services.
64.6213 Payments to NDBEDP certified programs.
64.6215 Reporting requirements.
64.6217 Complaints.
64.6219 Whistleblower protections.

Subpart GG—National Deaf-Blind Equipment Distribution Program

§ 64.6201 [Reserved]

§ 64.6203 [Reserved]

§ 64.6205 [Reserved]

§ 64.6207 Certification to receive funding.

For each state, including the District of Columbia and U.S. territories, the Commission will certify a single program as the sole entity authorized to receive reimbursement for NDBEDP activities from the TRS Fund. Such entity will have full responsibility for distributing equipment and providing related services, such as outreach, assessments, installation, and training, in that state, either directly or through collaboration, partnership, or contract with other individuals or entities in-state or out-of-state, including other NDBEDP certified programs.

(a) *Eligibility for certification.* Public or private entities, including, but not limited to, equipment distribution programs, vocational rehabilitation programs, assistive technology programs, schools for the deaf, blind, or deaf-blind, organizational affiliates, independent living centers, or private educational facilities, may apply to the Commission for certification.

(b) *When to apply.* Applications for certification shall be filed:

(1) Within 60 days after the effective date of this section;

(2) At least one year prior to the expiration of a program's certification;

(3) Within 30 days after public notice of a program's relinquishment of certification; and

(4) If an application deadline is extended or a vacancy exists for other reasons than relinquishment or expiration of a certification, within the time period specified by public notice.

(c) *Qualifications.* Applications shall contain sufficient detail to demonstrate the entity's ability to meet all criteria required for certification and a commitment to comply with all Commission requirements governing the NDBEDP. The Commission shall review applications and determine whether to grant certification based on the ability of an entity to meet the following qualifications, either directly or in coordination with other programs or entities, as evidenced in the application and any supplemental materials, including letters of recommendation:

(1) Expertise in the field of deaf-blindness, including familiarity with the culture and etiquette of individuals who are deaf-blind;

(2) The ability to communicate effectively with individuals who are deaf-blind (for training and other purposes), by among other things, using sign language, providing materials in Braille, ensuring that information made available online is accessible, and using other assistive technologies and methods to achieve effective communication;

(3) Administrative and financial management experience;

(4) Staffing and facilities sufficient to administer the program, including the ability to distribute equipment and provide related services to low-income individuals who are deaf-blind throughout the state, including those in remote areas;

(5) Experience with the distribution of specialized customer premises equipment, especially to individuals who are deaf-blind;

(6) Experience in training consumers on how to use Equipment and how to set up Equipment for its effective use;

(7) Familiarity with Covered Services; and,

(8) If the applicant is seeking renewal of certification, ability to provide Equipment and related services in compliance with this subpart.

(d) *Conflicts of interest.* (1) An applicant for certification shall disclose in its application any relationship, arrangement, or agreement with a manufacturer or provider of Equipment or related services that poses an actual or potential conflict of interest, as well as the steps the applicant will take to eliminate such actual or potential conflict or to minimize the associated risks. If an applicant learns of a potential or actual conflict while its application is pending, it must immediately disclose such conflict to the Commission. The Commission may reject an application for NDBEDP certification, or may require an applicant, as a condition of certification, to take additional steps to eliminate, or to minimize the risks associated with, an actual or potential conflict of interest, if relationships, arrangements, or agreements affecting the applicant are likely to impede its objectivity in the distribution of Equipment or its ability to comply with NDBEDP requirements.

(2) A certified entity shall disclose to the Commission any relationship, arrangement, or agreement with a manufacturer or provider of Equipment or related services that comes into being or is discovered after certification is granted and that poses an actual or potential conflict of interest, as well as the steps the entity will take to eliminate such actual or potential conflict or to minimize the associated risks, within 30 days after the entity learns or should have learned of such actual or potential conflict of interest. The Commission may suspend or revoke an NDBEDP certification or may require a certified entity, as a condition of continued certification, to take additional steps to eliminate, or to minimize the risks associated with, an actual or potential conflict of interest, if relationships, arrangements, or agreements affecting the entity are likely to impede its objectivity in the distribution of Equipment or its ability to comply with NDBEDP requirements.

(e) *Certification period.* Certification granted under this section shall be for a period of five years. A program may apply for renewal of its certification by filing a new application at least one year prior to the expiration of the certification period. If a certified entity is replaced prior to the expiration of the certification period, the successor entity's certification will expire on the date that the replaced entity's certification would have expired.

(f) *Notification of substantive change.* A certified program shall notify the Commission within 60 days of any substantive change that bears directly on its ability to meet the qualifications necessary for certification under paragraph (c) of this section.

(g) *Relinquishment of certification.* A program wishing to relinquish its certification before its certification expires shall electronically provide written notice of its intent to do so to the NDBEDP Administrator and the TRS Fund Administrator at least 90 days in advance, explaining the reason for such relinquishment and providing its proposed departure date. After receiving such notice, the Commission shall take such steps as may be necessary, consistent with this subpart, to ensure continuity and effective oversight of the NDBEDP for the affected state.

(h) *Suspension or revocation of certification.* The Commission may suspend or revoke NDBEDP certification if, after notice and an opportunity to object, the Commission determines that an entity is no longer qualified for certification. Within 30 days after being notified of a proposed suspension or revocation of certification, the reason therefor, and the applicable suspension or revocation procedures, a certified entity may present written arguments and any relevant documentation as to why suspension or revocation of certification is not warranted. Failure to respond to a notice of suspension or revocation within 30 days may result in automatic suspension or revocation of certification. A suspension of certification will remain in effect until the expiration date, if any, or until the fulfillment of conditions stated in a suspension decision. A revocation will be effective for the remaining portion of the current certification period. In the event of suspension or revocation, the Commission shall take such steps as may be necessary, consistent with this subpart, to ensure continuity and effective oversight of the NDBEDP for the affected state.

(i) [Reserved]

(j) *Certification transitions.* When a new entity is certified as a state's program, the previously certified entity shall:

(1) Within 30 days after the new entity is certified, and as a condition precedent to receiving payment for any reimbursement claims pending as of or after the date of certification of the successor entity,

(i) Transfer to the new entity all NDBEDP data, records, and information for the previous five years, and any Equipment remaining in inventory;

(ii) Provide notification in accessible formats about the newly-certified state program to state residents who are in the process of obtaining Equipment or related services, or who received Equipment during the previous three-year period; and

(iii) Inform the NDBEDP Administrator that such transfer and notification have been completed;

(2) Submit all reimbursement claims, reports, audits, and other required information relating to the previously certified entity's provision of Equipment and related services; and

(3) Take all other steps reasonably necessary to ensure an orderly transfer of responsibilities and uninterrupted functioning of the state program.

§ 64.6209 Eligibility criteria.

Before providing Equipment or related services to an individual, a certified program shall verify the individual's eligibility in accordance with this section.

(a) *Verification of disability.* A certified program shall require an individual applying for Equipment and related services to provide verification of disability in accordance with paragraph (a)(1) or (2) of this section.

(1) The individual may provide an attestation from a professional with direct knowledge of the individual's disability, either to the best of the professional's knowledge or under penalty of perjury, that the applicant is deaf-blind (as defined in § 64.6203(c) of this part). Such attestation shall include the attesting professional's full name, title, and contact information, including business name, address, phone number, and email address. Such attestation shall also include the basis of the attesting professional's knowledge that the individual is deaf-blind and may also include information about the individual's functional abilities to use Covered Services in various settings.

(2) The individual may provide existing documentation that the individual is deaf-blind, such as an individualized education program (IEP) or a Social Security determination letter.

(b) *Verification of income eligibility.* A certified program shall require an individual applying for Equipment and related services to provide verification that his or her income does not exceed 400 percent of the Federal Poverty Guidelines, as defined in 42 U.S.C. 9902(2), or that he or she is enrolled in a federal program with an income eligibility requirement that does not exceed 400 percent of the Federal Poverty Guidelines, such as Medicaid, Supplemental Nutrition Assistance Program, Supplemental Security Income, Federal Public Housing Assistance, or Veterans and Survivors Pension Benefit. The NDBEDP Administrator may identify state or other federal programs with income eligibility thresholds that do not exceed 400 percent of the Federal Poverty Guidelines for determining income eligibility for participation in the NDBEDP. When an applicant is not already enrolled in a qualifying low-income program, income eligibility may be verified by the certified program using appropriate and reasonable means.

(c) *Prohibition against requiring employment.* No certified program may require, for eligibility, that an applicant be employed or actively seeking employment.

(d) *Availability of Covered Services.* A certified program may require an equipment recipient to demonstrate, for eligibility, that a Covered Service that the Equipment is designed to use is available for use by the individual.

(e) *Age.* A certified program may not establish eligibility criteria that exclude low-income individuals who are deaf-blind of a certain age from applying for or receiving Equipment if the needs of such individuals are not being met through other available resources.

(f) *Reverification.* If an individual who has previously received equipment from a certified program applies to a certified program for additional Equipment or related services one year or more after the individual's income was last verified, the certified program shall reverify an individual's income eligibility in accordance with paragraph (b) before providing new Equipment or related services. If a certified program has reason to believe that an individual's vision or hearing has improved sufficiently that the individual is no longer eligible for Equipment or related services, the certified program shall require reverification of the individual's disability in accordance with paragraph (a) before providing new Equipment or related services.

§ 64.6211 Equipment distribution and related services.

(a) A certified program shall:

(1) Distribute Equipment and provide related services;

(2) Permit the transfer of a recipient's account, records, and any title to and control of the distributed Equipment to another state's certified program when a recipient relocates to another state;

(3) Permit the transfer of a recipient's account, records, and any title to and control of the distributed Equipment from another state's NDBEDP certified program when a recipient relocates to the program's state;

(4) Prohibit recipients from transferring Equipment received under the NDBEDP to another person through sale or otherwise, and if it learns that an individual has unlawfully obtained, sold, or transferred Equipment, take appropriate steps to reclaim the Equipment or its worth;

(5) Include the following or a substantially similar attestation on all consumer application forms:

> I certify that all information provided on this application, including information about my disability and income, is true, complete, and accurate to the best of my knowledge. I authorize program representatives to verify the information provided.
>
> I permit information about me to be shared with my state's current and successor program managers and representatives for the administration of the program and for the delivery of equipment and services to me. I also permit information about me to be reported to the Federal Communications Commission for the administration, operation, and oversight of the program.
>
> If I am accepted into the program, I agree to use program services solely for the purposes intended. I understand that I may not sell, give, or lend to another person any equipment provided to me by the program.
>
> If I provide any false records or fail to comply with these or other requirements or conditions of the program, program officials may end services to me immediately. Also, if I violate these or other requirements or conditions of the program on purpose, program officials may take legal action against me.
>
> I certify that I have read, understand, and accept these conditions to participate in iCanConnect (the National Deaf-Blind Equipment Distribution Program);

(6) Conduct outreach, in accessible formats, to inform state residents about the NDBEDP, which may include the development and maintenance of a program Web site;

(7) Engage an independent auditor to conduct an annual audit, submit a copy of the annual audit to the NDBEDP Administrator, and submit to audits as deemed appropriate by the Commission or its delegated authorities;

(8) Document compliance with all Commission requirements governing the NDBEDP and provide such documentation to the Commission upon request;

(9) Retain all records associated with the distribution of Equipment and provision of related services under the NDBEDP, including records that support reimbursement claims and reports required by §§ 64.6213 and 64.6215 of this part, for a minimum of five years; and

(10) Comply with other applicable provisions of this section.

(b) A certified program shall not:

(1) Impose restrictions on specific brands, models or types of communications technology that recipients may receive to access Covered Services; or

(2) Disable or hinder the use of, or direct manufacturers or vendors of Equipment to disable or hinder the use of, any capabilities, functions, or features on distributed Equipment that are needed to access Covered Services;

(3) Accept any type of financial arrangement from Equipment vendors that creates improper incentives to purchase particular Equipment.

§ 64.6213 Payments to NDBEDP certified programs.

(a) Programs certified under the NDBEDP shall be reimbursed for the cost of Equipment that has been distributed to low-income individuals who are deaf blind and authorized related services, up to the state's funding allocation under this program as determined by the Commission or any entity authorized to act for the Commission on delegated authority.

(b) Upon certification and at the beginning of each TRS Fund year, state programs may elect to submit reimbursement claims on a monthly, quarterly, or semiannual basis;

(c) Within 30 days after the end of each reimbursement period during the TRS Fund year, each certified program must submit documentation that supports its claim for reimbursement of the reasonable costs of the following:

(1) Equipment and related expenses, including maintenance, repairs, warranties, returns, refurbishing, upgrading, and replacing Equipment distributed to consumers;

(2) Individual needs assessments;

(3) Installation of Equipment and individualized consumer training;

(4) Maintenance of an inventory of Equipment that can be loaned to consumers during periods of Equipment repair or used for other NDBEDP purposes, such as conducting individual needs assessments;

(5) Outreach efforts to inform state residents about the NDBEDP;

(6) Train-the-trainer activities and programs;

(7) Travel expenses; and

(8) Administrative costs, defined as indirect and direct costs that are not included in other cost categories of this paragraph (c) and that are necessary for the operation of a program, but not to exceed 15 percent of the certified program's funding allocation.

(d) Documentation will be provided in accordance with claim filing instructions issued by the TRS Fund Administrator. The NDBEDP Administrator and the TRS Fund Administrator may require a certified program to submit supplemental information and documentation when necessary to verify particular claims.

(e) With each request for payment, the chief executive officer, chief financial officer, or other senior executive of the certified program, such as a manager or director, with first-hand knowledge of the accuracy and completeness of the claim in the request, must certify as follows:

> I swear under penalty of perjury that I am (name and title), an officer of the above-named reporting entity, and that I have examined all cost data associated with equipment and related services for the claims submitted herein, and that all such data are true and an accurate statement of the business activities conducted pursuant to the NDBEDP by the above-named certified program.

§ 64.6215 Reporting requirements.

(a) Every six months, for the periods January through June and July through December, a certified program shall submit data to the Commission in the following categories:

(1) Each Equipment recipient's identity and other relevant characteristics;

(2) Information about the Equipment provided, including costs;

(3) Information about assessments, installation, and training, including costs;

(4) Information about local outreach undertaken, including costs; and

(5) Promptness of service.

(b) The categories of information to be reported may be supplemented by the Chief, Consumer and Governmental Affairs Bureau, as necessary to further the purposes of the program and prevent fraud, waste, and abuse. Reports are due 60 days after the end of a reporting period. The specific items of information to be reported in each category and the manner in which they are to be reported shall be set forth in instructions issued by the NDBEDP Administrator.

(c) With each report, the chief executive officer, chief financial officer, or other senior executive of the certified program, such as a director or manager, with first-hand knowledge of the accuracy and completeness of the information provided in the report, must certify as follows:

> I swear under penalty of perjury that I am (name and title), an officer of the above-named reporting entity, and that the entity

has policies and procedures in place to ensure that recipients satisfy the NDBEDP eligibility requirements, that the entity is in compliance with the Commission's NDBEDP rules, that I have examined the foregoing reports and that all requested information has been provided, and all statements of fact are true and an accurate statement of the business activities conducted pursuant to the NDBEDP by the above-named certified program.

§ 64.6217 Complaints.

Complaints against NDBEDP certified programs for alleged violations of this subpart may be either informal or formal.

(a) *Informal complaints.* (1) An informal complaint may be transmitted to the Consumer and Governmental Affairs Bureau by any reasonable means, such as letter, fax, telephone, TTY, email, or the Commission's online complaint filing system.

(2) *Content.* An informal complaint shall include the name and address of the complainant; the name of the NDBEDP certified program against whom the complaint is made; a statement of facts supporting the complainant's allegation that the NDBEDP certified program has violated or is violating section 719 of the Communications Act or the Commission's rules, or both; the specific relief or satisfaction sought by the complainant; and the complainant's preferred format or method of response to the complaint by the Commission and the NDBEDP certified program, such as by letter, fax, telephone, TTY, or email.

(3) *Service.* The Commission shall promptly forward any complaint meeting the requirements of this subsection to the NDBEDP certified program named in the complaint and call upon the program to satisfy or answer the complaint within the time specified by the Commission.

(b) *Review and disposition of informal complaints.* (1) Where it appears from the NDBEDP certified program's answer, or from other communications with the parties, that an informal complaint has been satisfied, the Commission may, in its discretion, consider the matter closed. In all other cases, the Commission shall inform the parties of its review and disposition of a complaint filed under this subpart. Where practicable, this information shall be transmitted to the complainant and NDBEDP certified program in the manner requested by the complainant.

(2) A complainant unsatisfied with the NDBEDP certified program's response to the informal complaint and the Commission's disposition of the informal complaint may file a formal complaint with the Commission pursuant to paragraph (c) of this section.

(c) *Formal complaints.* Formal complaints against an NDBEDP certified program may be filed in the form and in the manner prescribed under §§ 1.720 through 1.736 of this chapter. Commission staff may grant waivers of, or exceptions to, particular requirements under §§ 1.720 through 1.736 of this chapter for good cause shown; provided, however, that such waiver authority may not be exercised in a manner that relieves, or has the effect of relieving, a complainant of the obligation under §§ 1.720 and 1.728 of this chapter to allege facts which, if true, are sufficient to constitute a violation or violations of section 719 of the Communications Act or this subpart.

(d) *Actions by the Commission on its own motion.* The Commission may on its own motion conduct such inquiries and hold such proceedings as it may deem necessary to enforce the requirements of this subpart and section 719 of the Communications Act. The procedures to be followed by the Commission shall, unless specifically prescribed by the Communications Act and the Commission's rules, be such as in the opinion of the Commission will best serve the purposes of such inquiries and proceedings.

§ 64.6219 Whistleblower protections.

(a) NDBEDP certified programs shall permit, without reprisal in the form of an adverse personnel action, purchase or contract cancellation or discontinuance, eligibility disqualification, or otherwise, any current or former employee, agent, contractor, manufacturer, vendor, applicant, or recipient, to disclose to a designated official of the certified program, the NDBEDP Administrator, the TRS Fund Administrator, the Commission, or to any federal or state law enforcement entity, any known or suspected violations of the Communications Act or Commission rules, or any other activity that the reporting person reasonably believes to be unlawful, wasteful, fraudulent, or abusive, or that otherwise could result in the improper distribution of Equipment, provision of services, or billing to the TRS Fund.

(b) NDBEDP certified programs shall include these whistleblower protections with the information they provide about the program in any employee handbooks or manuals, on their Web sites, and in other appropriate publications.

■ 3. Effective July 1, 2017, add §§ 64.6201, 64.6203, and 64.6205 to subpart GG to read as follows:

* * * * *

Sec.
64.6201 Purpose.
64.6203 Definitions.
64.6205 Administration of the program.

* * * * *

§ 64.6201 Purpose.

The National Deaf-Blind Equipment Distribution Program (NDBEDP) is established to support programs that distribute Equipment to low-income individuals who are deaf-blind.

§ 64.6203 Definitions.

For purposes of this subpart, the following definitions shall apply:

(a) *Covered Services.* Telecommunications service, Internet access service, and advanced communications services, including interexchange services and advanced telecommunications and information services.

(b) *Equipment.* Hardware, software, and applications, whether separate or in combination, mainstream or specialized, needed by an individual who is deaf-blind to achieve access to Covered Services.

(c) *Individual who is deaf-blind.* (1) Any individual:

(i) Who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or a field defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both these conditions;

(ii) Who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition; and

(iii) For whom the combination of impairments described in paragraphs (c)(1)(i) and (ii) of this section cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation.

(2) An individual's functional abilities with respect to using Covered Services in various environments shall be considered when determining whether the individual is deaf-blind under paragraphs (c)(1)(ii) and (iii) of this section.

(3) The definition in this paragraph (c) also includes any individual who, despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined

through functional and performance assessment to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives.

(d) *Specialized customer premises equipment* means equipment employed on the premises of a person, which is commonly used by individuals with disabilities to achieve access to Covered Services.

(e) *TRS Fund Administrator.* The entity selected by the Commission to administer the Interstate Telecommunications Relay Service Fund (TRS Fund) established pursuant to subpart F.

§ 64.6205 Administration of the program.

The Consumer and Governmental Affairs Bureau shall designate a Commission official as the NDBEDP Administrator to ensure the effective, efficient, and consistent administration of the program, determine annual funding allocations and reallocations, and review reimbursement claims to ensure that the claimed costs are consistent with the NDBEDP rules.

[FR Doc. 2016–22713 Filed 9–23–16; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 81, No. 186
Monday, September 26, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9074; Directorate Identifier 2016–NM–097–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Airbus Model A318–111 and –112 airplanes, Model A319–111, –112, –113, –114, and –115 airplanes, Model A320–211, –212, and –214 airplanes, and Model A321–111, –112, –211, –212, and –213 airplanes. This proposed AD was prompted by reports of engine fan cowl door (FCD) losses on airplanes equipped with CFM56 engines due to operator failure to close the FCD during ground operations. This proposed AD would require modification and re-identification of certain FCDs or replacement of certain FCDs. This proposed AD would also require installation of a placard. We are proposing this AD to prevent in-flight loss of an engine FCD and possible consequent damage to the airplane.

DATES: We must receive comments on this proposed AD by November 10, 2016.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Airbus, Airworthiness Office–EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425 227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9074; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–9074; Directorate Identifier 2016–NM–097–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive, 2016–0069, dated April 11, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for all Airbus Model A318–111 and –112 airplanes, Model A319–111, –112, –113, –114, and –115 airplanes, Model A320–211, –212, and –214 airplanes, and Model A321–111, –112, –211, –212, and –213 airplanes. The MCAI states:

> Fan Cowl Door (FCD) losses were reported on aeroplanes equipped with CFM56 engines.
>
> Investigations confirmed that in all cases the fan cowls were opened prior to the flight and were not correctly re-secured. During the pre-flight inspection, it was then not detected that the FCD were not properly latched.
>
> This condition, if not detected and corrected, could lead to in-flight loss of a FCD, possibly resulting in damage to the aeroplane and/or injury to persons on the ground.
>
> Prompted by these events, new FCD front latch and keeper assembly were developed, having a specific key necessary to un-latch the FCD. This key cannot be removed unless the FCD front latch is safely closed. The key, after removal, must be stowed in the flight deck at a specific location, as instructed in the applicable Aircraft Maintenance Manual. Applicable Flight Crew Operating Manual has been amended accordingly. After modification, the FCD is identified with a different Part Number (P/N).
>
> For the reasons described above, this [EASA] AD requires modification and re-identification of FCD [or replacement of the FCD].

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9074.

Related Service Information Under 1 CFR Part 51

We reviewed Airbus Service Bulletin A320–71–1068, Revision 01, dated April 28, 2016. This service information describes procedures for modifying the left-hand and right-hand FCDs on engines 1 and 2; installing a placard;

and re-identifying both the left-hand and right-hand FCDs with the new part number. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Differences Between This Proposed AD and the MCAI or Service Information

The parts installation prohibition specified in paragraph (5) of the MCAI depends on the configuration of the airplane. However, paragraph (k) of this proposed AD prohibits installing certain parts for all airplanes as of the effective date of this proposed AD.

Costs of Compliance

We estimate that this proposed AD affects 400 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification and re-identification of (or replacement of) FCD, and Installation of Placard.	Up to 7 work-hours × $85 per hour = $595 ...	$4,865	$5,460	$2,184,000

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(h), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Airbus: Docket No. FAA–2016–9074; Directorate Identifier 2016–NM–097–AD.

(a) Comments Due Date

We must receive comments by November 10, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus airplanes, certificated in any category, identified in paragraphs (c)(1) through (c)(4) of this AD, all manufacturer serial numbers.

(1) Airbus Model A318–111 and –112 airplanes.

(2) Airbus Model A319–111, –112, –113, –114, and –115 airplanes.

(3) Airbus Model A320–211, –212, and –214 airplanes.

(4) Airbus Model A321–111, –112, –211, –212, and –213 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 71, Powerplant.

(e) Reason

This AD was prompted by reports of engine fan cowl door (FCD) losses on airplanes equipped with CFM56 engines due to operator failure to close the FCD during ground operations. We are issuing this AD to prevent in-flight loss of an engine FCD and possible consequent damage to the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Modification of Affected Fan Cowl Doors and Placard Installation

Within 35 months after the effective date of this AD, accomplish concurrently the actions in paragraphs (g)(1), (g)(2) and (g)(3) of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–71–1068, Revision 01, dated April 28, 2016.

(1) Modify the left-hand and right-hand FCDs on engines 1 and 2.

(2) Install a placard on the box located at the bottom of the 120 volt unit (120 VU) panel, or at the bottom of the coat stowage, as applicable to airplane configuration.

(3) Re-identify both the left-hand and right-hand FCDs with the new part number, as applicable, as specified in table 1 to paragraphs (g), (h), (i), and (k) of this AD.

TABLE 1 TO PARAGRAPHS (g), (h), (i), AND (k) OF THIS AD—FAN COWL DOOR PART NUMBER (P/N) CHANGE

Door position	Old P/N	New P/N
Left-hand Side—CFM56–5A	238–0301–501	238M0301–501
	238–0301–503	238M0301–503
	238–0301–505	238M0301–505
	238–0301–507	238M0301–507
	238–0301–511	238M0301–511
	238–0301–513	238M0301–513
	238–0301–515	238M0301–515
	238–0301–517	238M0301–517
	238–0301–519	238M0301–519
	238–0301–521	238M0301–521
	238–0301–523	238M0301–523
	238–0301–525	238M0301–525
	238–0301–527	238M0301–527
	238–0301–529	238–0301–533
	238–0301–531	238–0301–535
Right-hand Side—CFM56–5A	238–0302–501	238M0302–501
	238–0302–503	238M0302–503
	238–0302–505	238M0302–505
	238–0302–509	238M0302–509
	238–0302–511	238M0302–511
	238–0302–513	238M0302–513
	238–0302–515	238M0302–515
	238–0302–517	238M0302–517
	238–0302–519	238M0302–519
	238–0302–521	238M0302–521
	238–0302–523	238M0302–523
	238–0302–525	238M0302–525
	238–0302–527	238M0302–527
	238–0302–529	238M0302–529
	238–0302–531	238M0302–531
	238–0302–533	238M0302–533
	238–0302–535	238M0302–535
	238–0302–537	238M0302–537
	238–0302–539	238–0302–547
	238–0302–541	238–0302–549
	238–0302–543	238–0302–551
	238–0302–545	238–0302–553
Left-hand Side—CFM56–5B	642–3001–503	642M3001–503
	642–3001–505	642M3001–505
	642–3001–507	642–3001–511
	642–3001–509	642–3001–513
Right-hand Side—CFM56–5B	642–3002–503	642M3002–503
	642–3002–505	642M3002–505
	642–3002–507	642M3002–507
	642–3002–509	642M3002–509
	642–3002–511	642–3002–519
	642–3002–513	642–3002–521
	642–3002–515	642–3002–523
	642–3002–517	642–3002–525

(h) Replacement of Affected Fan Cowl Door With New Door Design

Replacing the FCDs, having a part number listed as "Old P/N" in table 1 to paragraphs (g), (h), (i), and (k) of this AD, with the FCDs having the corresponding part number listed as "New P/N" in table 1 to paragraphs (g), (h), (i), and (k) of this AD, is equal to compliance with paragraphs (g)(1) and (g)(3) of this AD. The replacement must be done in accordance with instructions approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA), or approved under Airbus's EASA Design Organization Approval (DOA).

(i) Compliance Information for Airplanes on Which Airbus Modification 157517 Is Embodied

An airplane on which Airbus modification 157517 has been embodied in production, is compliant with the requirements of paragraphs (g)(1) and (g)(3) of this AD, provided it is determined that no FCD, having a part number identified as "Old P/N" in table 1 to paragraphs (g), (h), (i), and (k) of this AD, are installed on that airplane at the effective date of the AD.

(j) Compliance Information for Airplanes on Which Airbus Modification 157519 or Modification 157521 is Embodied

An airplane on which Airbus modification 157519 or modification 157521 has been embodied in production is compliant with the requirements of paragraph (g)(2) of this AD.

(k) Parts Installation Prohibition

As of the effective date of this AD, do not install on any airplane an FCD part number identified as "Old P/N" in table 1 to paragraphs (g), (h), (i), and (k) of this AD.

(l) Installation of Approved Parts

Installation on an airplane of right-hand and left-hand FCD, having a part number approved after the effective date of this AD, is equal to compliance with the requirements of paragraphs (g)(1) and (g)(3) of this AD for that airplane only, provided the conditions specified in paragraphs (l)(1) and (l)(2) of this AD are met.

(1) The part number must be approved by the Manager, International Branch, ANM–

116, Transport Airplane Directorate, FAA; or EASA, or approved under Airbus's EASA DOA.

(2) The FCD installation must be accomplished in accordance with airplane modification instructions approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or approved under Airbus's EASA DOA.

(m) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A320–71–1068, dated December 18, 2015, which is not incorporated by reference in this AD.

(n) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) Contacting the Manufacturer: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(o) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016–0069, dated April 11, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9074.

(2) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 31, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–21703 Filed 9–23–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–131418–14]

RIN 1545–BN27

Reporting for Qualified Tuition and Related Expenses; Education Tax Credits; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to a notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains corrections to a notice of proposed rulemaking and notice of public hearing (REG–131418–14) that was published in the **Federal Register** on Tuesday, August 2, 2016 (81 FR 50657). The proposed regulations that revise the rules for reporting qualified tuition and related expenses under section 6050S on a Form 1098–T, "Tuition Statement," and conforms the regulations to the changes made to section 6050S by the Protecting Americans from Tax Hikes Act of 2015.

DATES: Written or electronic comments and request for a public hearing for the notice of proposed rulemaking at 81 FR 50657, August 2, 2016, are still being accepted and must be received by October 31, 2016.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Gerald Semasek of the Office of Associate Chief Counsel (Procedure and Administration) for the proposed regulations under sections 6050S and 6724, (202) 317–6845, and Sheldon Iskow of the Office of Associate Chief Counsel (Income Tax and Accounting) for the proposed regulations under section 25A, (202) 317–4718; concerning the submission of comments and requests for a public hearing, Regina Johnson, (202) 317–6901 (not toll-free calls).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is subject of this document is under section 6050S of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking and notice of public hearing (REG–131418–14) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the notice of proposed rulemaking and notice of public hearing (REG–131418–14) that are subject to FR Doc. 2016–18032 are corrected as follows:

■ 1. On page 50662, in the preamble, second column, the third line from the bottom of the first full paragraph, the language "requiring eligible educational institution" is corrected to read "requiring eligible educational institutions".

§ 1.25A–0 [Corrected]

■ 2. On page 50664, second column, amendatory instruction 2, the language "9. Revising the entry for § 1.25A–2(f)(6)." is corrected to read "9. Revising the entry for § 1.25A–5(f)(6).".

■ 3. On page 50664, third column, entry for (e)(3), the language "Effective/applicability dates." is corrected to read "Applicability dates.".

■ 4. On page 50664, third column, entry for (f)(4), the language "Effective/applicability date." is corrected to read "Applicability date.".

■ 5. On page 50664, third column, entry for (e), the language "Effective/applicability date." is corrected to read "Applicability date.".

■ 6. On page 50664, third column, entry for (g), the language "Effective/applicability date." is corrected to read "Applicability date.".

§ 1.6050S–0 [Corrected]

■ 7. On page 50667, second column, entry for (c)(1)(iii)(E), the language "consequences of refunds, reimbursements." is corrected to read "consequences of refunds, reimbursements,".

§ 1.6050S–1 [Corrected]

■ 8. On page 50669, third column, in the second line of paragraph (b)(2)(vii), *Example 5.* (i), the language, "2016 fall semester" is corrected to read "Z as a full-time student for the 2016 fall semester"; and in the tenth the language, "$11,000 for the 2017 spring semesters." is corrected to read " $11,000 for the 2017 spring semester.".

■ 9. On page 50670, second column, the third line of paragraph (c)(2)(i), the language, "provided in paragraphs (c)(2)(ii) of this" is corrected to read "provided in paragraph (c)(2)(ii) of this".

■ 10. On page 50671, first column, the fifth line of paragraph (g), the language, "31, 2003, except that paragraphs (a)(2)" is corrected to read "31, 2003, except that paragraphs (a)(2),".

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2016–22938 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PS Docket No. 13–87; PS Docket No. 06–229, WT Docket No. 96–86, RM–11433 and RM–11577, FCC 16–111]

Service Rules Governing Narrowband Operations in the 769–775/799–805 MHz Bands

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on proposals to amend the Commission's rules to promote spectrum efficiency, interoperability, and flexibility in 700 MHz public safety narrowband operations (769–775/799–805 MHz). By this action, the Commission affords interested parties an opportunity to submit comments on these proposed rule changes.

DATES: Comments are due on or before October 26, 2016 and reply comments are due on or before November 10, 2016.

FOR FURTHER INFORMATION CONTACT: John Evanoff, Policy and Licensing Division, Public Safety and Homeland Security Bureau, (202) 418–0848 or *john.evanoff@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking (FNPRM) in PS Docket No. 13–87, FCC 16–111, released on August 22, 2016. The document is available for download at *http://fjallfoss.fcc.gov/edocs_public/.* The complete text of this document is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

In this FNPRM, the Commission seeks comment on a proposal to facilitate the use of Vehicular Repeater Systems (VRS) on 700 MHz narrowband General Use and State License channels. In particular, it seeks comment on whether to amend the 700 MHz narrowband trunking rule and asks for comment on additional rule changes that may be necessary to accommodate vehicular repeater systems' operation on 700 MHz narrowband channels.

This FNPRM also seeks comment on the Department of Homeland Security's (DHS) Project 25 Compliance Assessment Advisory Council (P25 CAP AP) list of 15 recommended feature sets and capabilities to facilitate interoperable communications between radios when operating in the conventional mode of P25 using the Common Air Interface (CAI) on the designated 700 MHz interoperability channels. The Commission seeks comment on whether to adopt all, some, or none, of the additional feature sets and capabilities recommended.

This FNPRM also seeks comment on a recommendation by Motorola Solutions, Inc. (Motorola) to clarify Sections 90.547 and 90.548 of the Commission's rules that require that 700 MHz radios must be capable of being programmed to operate on the designated interoperability channels.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Interested parties may view documents filed in this proceeding on the Commission's Electronic Comment Filing System (ECFS) using the following steps: (1) Access ECFS at *http://www.fcc.gov/cgb/ecfs.* (2) In the introductory screen, click on "Search for Filed Comments." (3) In the "Proceeding" box, enter the numerals in the docket number. (4) Click on the box marked "Retrieve Document List." A link to each document is provided in the document list. The public may inspect and copy filings and comments during regular business hours at the FCC Reference Information Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The public may also download this FNPRM from the Commission's Web site at *http://www.fcc.gov/.*

This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with 47 CFR

1.1206(b). In proceedings governed by 47 CFR 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

Procedural Matters

A. Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended ("RFA"), the Commission has prepared this Initial Regulatory Flexibility Analysis ("IRFA") of the possible significant economic impact on a substantial number of small entities that might result from adoption of the rules proposed in the FNPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the applicable deadlines for initial comments, or reply comments, as specified in the FNPRM.

B. Need for, and Objectives of, the Proposed Rules

In the FNPRM, we seek comment on whether to amend the Commission's rules governing 700 MHz public safety narrowband spectrum at 769–775 MHz and 799–805 MHz. The rule changes we seek comment on are intended to promote flexible and efficient use of public safety narrowband spectrum in the 700 MHz band while reducing the regulatory burdens on licensees wherever possible. In order to achieve these objectives, we seek comment in the FNPRM on exempting low power vehicular repeater systems from the narrowband trunking requirements. Exempting low power vehicular repeaters systems from the trunking requirements would facilitate rapid deployment of low power vehicular repeater systems as well as reduce burdens on public safety entities. We seek comment on whether to clarify the rules concerning the requirement that 700 MHz radios be capable of being programmed to operate on the designated interoperability channels. Clarification would provide greater certainty to equipment manufacturers on the required performance of their equipment. We also seek comment on whether to adopt a list of recommended feature sets and capabilities in order to ensure that radios operating in the conventional mode on the designated 700 MHz narrowband interoperability channels are in fact interoperable across vendors. Adopting such a list would promote certainty for public safety and manufacturers as well as promote competition in the public safety equipment market. We also seek comment on whether the Commission should instead informally encourage the agencies, funders and manufacturers to adopt voluntary best practices directed to improving interoperability, both technically and operationally.

C. Legal Basis

The legal basis for any action that may be taken pursuant to this FNPRM is contained in Sections 1, 4(i), 303, 316, 332, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 1, 154(i), 303, 316, 332, and 337.

D. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

Public Safety Radio Licensees. As a general matter, Public Safety Radio licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. For the purpose of determining whether a Public Safety Radio licensee is a small business as defined by the SBA, we use the broad census category, Wireless Telecommunications Carriers (except Satellite).

The Wireless Telecommunications Carriers (except satellite) industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular phone services, paging services, wireless Internet access, and wireless video services. The appropriate size standard under SBA rules for the category Wireless Telecommunications Carriers (except satellite) is that a business is small if it has 1,500 or fewer employees. Census data for 2007 show that there were 1,383 firms that operated for the entire year. Of this total, 1,368 firms had employment of fewer than 1000 employees. Thus under this category and the associated small business size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small.

The Commission does not require Public Safety Radio licensees to disclose information about number of employees, so the Commission does not have information that could be used to determine how many Public Safety Radio licensees constitute small entities under this definition.

Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing. The U.S. Census defines this industry as comprising "establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by the establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment. The SBA has established a size standard for this industry which classifies any businesses in this industry as small if it has 750 or fewer employees. Census data for 2007 indicate that 939 such businesses operated in that year. Of that number, 912 businesses operated with fewer than 500 employees. Based on this data, we conclude that a majority of businesses in this industry are small by the SBA standard.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

No rule proposed in the FNPRM will entail additional reporting, recordkeeping, and/or third-party consultation or other compliance requirement.

F. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant, specifically small business alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): "(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) and exemption from coverage of the rule, or any part thereof, for small entities."

The FNPRM seeks comment on a proposed change to the rules covering operation of public safety systems on narrowband spectrum in the 700 MHz band. Specifically, the FNPRM seeks comment on whether the proposed rule changes to section 90.537 of the Commission's rules will promote efficient use of public safety narrowband spectrum in the band while reducing economic burdens on licensees. For the 700 MHz General Use and State License channels, section 90.537 provides that "[a]ll systems using six or more narrowband channels in the 769–775 MHz and 799–805 MHz frequency bands must be trunked systems, except for those described in paragraph (b) of this section." In order to strike the proper balance between these two objectives, the FNPRM seeks comment, inter alia, on exempting low power vehicular repeaters from the 700 MHz narrowband trunking requirements. The FNPRM also seeks comment on maximizing interoperability by adopting a list of feature sets and capabilities in radios designed to operate in the conventional mode on the designated 700 MHz narrowband interoperability channels. Currently, the Commission's rules do not specify feature sets or capabilities that will promote interoperability across vendors and between users. Thus, we seek comment on whether it would be beneficial to incorporate into our rule specific feature sets and capabilities for radios designed to operate on the 700 MHz narrowband interoperability channels.

G. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

H. Paperwork Reduction Act of 1995 Analysis

This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

Ordering Clauses

Accordingly, *It is ordered* that, pursuant to Sections 1, 4(i), 303, 316, 332, 337, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303, 316, 332, 337, 405, this Further Notice of Proposed Rulemaking *is hereby adopted*.

It is further ordered that pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 1.415 and 1.419, interested parties may file comments on the NPRM on or before October 26, 2016, and reply comments on or before November 10, 2016.

it is further ordered, that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Further Notice of Proposed Rulemaking, including the the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 90

Radio.

Federal Communications Commission.

Marlene Dortch,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 90 as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICE

■ 1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), and 332(c)(7), and Title VI of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, 126 Stat. 156.

■ 2. Amend § 90.537 by revising paragraph (a) to read as follows:

§ 90.537 Trunking requirement.

(a) General use and State License channels. All systems using six or more narrowband channels in the 769–775 MHz and 799–805 MHz frequency bands must be trunked systems, except for low power vehicular repeaters (MO3) authorized on General Use and State License channels and those described in paragraph (b) of this section.

* * * * *

■ 3. Amend § 90.548 by adding paragraph (d) to read as follows:

§ 90.548 Interoperability Technical Standards.

* * * * *

(d) Mobile and portable transceivers must at a minimum include the following feature sets and capabilities while operating in the conventional mode in order to be validated for compliance with the Project 25 standards.

(1) A subscriber unit must be capable of issuing an emergency alarm in a conventional system conforming to the following standard: TIA 102.BAAD–A Conventional Procedures, Section 4.2.2., released February 2010.

(2) A subscriber unit must be capable of setting the emergency bit on all voice transmissions to notify units operating on the same channel that the user has declared an emergency situation conforming to the following standard: Project 25 Statement of Requirements, Section 2.1.2.25.1., released December 11, 2013.

(3) A subscriber unit must conform to the unit and accessory mil-spec requirements in accordance with the following standard: Project 25 Statement of Requirements, Sections 1.3.3 through 1.3.3.5., released December 11, 2013.

(4) A subscriber unit must be capable of issuing group calls in a conventional system in conformance with the following standard: Project 25 Statement of Requirements, Section 2.1.2.1., released December 11, 2013.

(5) A subscriber unit must be capable of issuing private calls in a conventional system in conformance with the following standard: Project 25 Statement of Requirements, Section 2.1.2.3., released December 11, 2013.

(6) The three Project 25 standard squelch modes must be supported in conformance with the following standard: Project 25 Statement of Requirements, Section 2.1.2.30, as effective on December 11, 2013.

(7) A subscriber unit must properly implement the special "Reserved" conventional network access code (NAC) and talkgroup in conformance with the following standard: TIA TSB–102.CABA, released October 2010.

(8) A subscriber unit must include "No Call" Talk Group ($0000) and "All Call" Talk Group ($FFFF) in conformance with the following standard: Project 25 Statement of Requirements, Section 2.1.2.34., released December 11, 2013.

(9) A subscriber unit must be able to transmit and receive the appropriate status symbols to indicate that a channel is busy in both direct and repeater mode in conformance with the following standard: TIA TSB–102.CABA, released October 2010.

(10) A subscriber units must be compatible with C4FM and CQPSK Modulation in conformance with the following standard: TIA TSB–102.CABA, released December 11, 2013.

(11) A fixed conventional repeater must be able to repeat the correct/matching network access code (NAC) for all subscriber call types (clear and encrypted) using the same output NAC in conformance with the following standard: TIA TSB–102.CABA, released December 11, 2013.

(12) A fixed conventional repeater must be able to repeat the correct/matching network access code (NAC) for all subscriber call types (clear and encrypted) using a different output NAC in conformance with the following standard: TIA TSB–102.CABA, released December 11, 2013.

(13) A fixed conventional repeater must be able to reject (no repeat) all input transmissions with incorrect network access code (NAC) in conformance with the following standard; TIA TSB–102.CABA, released December 11, 2013.

(14) A fixed conventional repeater must be able to support the correct status symbol indicating when an input channel is busy in conformance with the following standard: TIA TSB–102.CABA, released December 11, 2013.

(15) A fixed conventional repeater must be able to support the correct implementation of special reserved network access code (NAC) values $293, $F7E, and $F7F in conformance with the following standard: TIA TSB–102.CABA, released December 11, 2013.

[FR Doc. 2016–22978 Filed 9–23–16; 8:45 am]

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SURFACE TRANSPORTATION BOARD

49 CFR Parts 1201, 1242

[Docket No. EP 681]

Class I Railroad Accounting and Financial Reporting—Transportation of Hazardous Materials

AGENCY: Surface Transportation Board.

ACTION: Advance notice of proposed rulemaking, withdrawal.

SUMMARY: The Surface Transportation Board is withdrawing the advance notice of proposed rulemaking and discontinuing the EP 681 rulemaking proceeding which sought comment on whether and how it should update its accounting and financial reporting for Class I rail carriers to better capture the operating costs of transporting hazardous materials.

DATES: The advance notice of proposed rulemaking published on January 5, 2009 (74 FR 248) is withdrawn and the rulemaking proceeding is discontinued on September 22, 2016.

FOR FURTHER INFORMATION CONTACT: Allison Davis at (202) 245–0378. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On January 5, 2009, in the above titled docket, the Board issued an Advance Notice of Proposed Rulemaking (ANPR) seeking public comment on whether and how it should update its accounting and financial reporting for Class I rail carriers and refine its Uniform Railroad Costing System (URCS) to better capture the operating costs of transporting hazardous materials. For the reasons stated below, we will discontinue this proceeding.

The Board uses URCS to determine a carrier's variable costs in a variety of regulatory proceedings. The URCS model determines, for each Class I railroad, what portion of each category of costs shown in that carrier's Annual Report to the Board (STB Form R–1) represents its system-average variable cost for that year, expressed as a unit cost. In the ANPR, the Board noted that there may be unique operating costs associated with the transportation of hazardous materials that URCS does not attribute to those movements. As an example, the Board suggested that the transportation of hazardous materials may require carriers to pay high insurance premiums, which would be spread across all traffic of the railroad rather than being attributed specifically to the transportation of the hazardous materials. Additionally, the Board noted that the Uniform System of Accounts (USOA)—the accounting standards which Class I carriers must use to prepare the financial statements that they submit to the Board—does not include a separate classification for hazardous material operations that would allow for an accounting of the assets used and costs incurred in providing such service.

The Board therefore sought comment on "whether and how it should improve its informational tools to better identify and attribute the costs of hazardous-material transportation movements," including any revisions to the USOA and improvements to the analytic capabilities of URCS. *ANPR,* slip op. at 2. The Board specifically sought comment on several items, including how hazardous material operations and expenses could be reported in a subschedule of the annual R–1 reports, a specific definition of what should constitute a movement of hazardous material for this purpose, whether that definition should be limited to movements of "Toxic Inhalation Hazards" or not, and the best operating statistic (such as car-miles, revenue ton-miles, or revenue tons of hazardous materials movements) for URCS to use to allocate specified hazardous material costs to individual movements. In response to the ANPR, the Board received comments from multiple stakeholders, as discussed below.[1]

DOT agrees that "additional data should be reported to [USOA] in order to identify and quantify these [hazardous material] costs, and that URCS should attribute these costs to hazmat traffic alone rather than to the entirety of a carrier's business." (DOT Comment 2.)

AAR, BNSF, CP, and UP generally agree with the Board's stated goals in this proceeding. (AAR Comment 2; BNSF Comment 2, CP Comment 7, 9; UP Comment 7.) However, they also argue that changes to URCS would not sufficiently address the railroad industry's concerns with transporting hazardous material. BNSF and NSR underscore the risk of liability from a catastrophic accident (BNSF Comment 2; NSR Comment 2–3), while UP stresses the importance of fairly apportioning risk across all participants in the supply chain (UP Comment 2). The railroads argue that, even if the Board were to change URCS, they should also be allowed to present the unique costs of transporting hazardous materials in rate proceedings involving hazardous materials. (*See* AAR Comment 2; CP Comment 3–4, 9; NSR Comment 3; UP Comment 8–9.)

ACC, AECC, and Diversified CPC argue that the Board should not limit a review of URCS by any single issue or commodity, but should instead conduct a broader review of URCS. (ACC Comment 2; AECC Comment 2; Diversified CPC Comment 8.) ACC also argues that the proposed rulemaking would be arbitrary and ill-advised because, while some railroads have faced one-time costs from settlements of claims, the railroads have reported few ongoing, quantifiable costs relating solely to hazardous materials transportation. (ACC Comment 2.)

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[1] The Board received comments from: The American Chemistry Council, the Chlorine Institute, The Fertilizer Institute, and the Edison Electric Institute (collectively, ACC); Arkansas Electric Cooperative Corporation (AECC); the Association of American Railroads (AAR); BNSF Railway Company (BNSF); Canadian Pacific Railway Company (CP); Diversified CPC International, Inc. (Diversified CPC); Norfolk Southern Railway Company (NSR); Union Pacific Railroad Company (UP); and the U.S. Department of Transportation (DOT).

While the Board appreciates the input it received from the commenters in this proceeding, it has decided to close this docket. Although the Board is not foreclosing the possibility of addressing this issue in the future, even if it were to do so, it would be initiated as a new proceeding. Thus, we will not move forward with this proceeding at this time and will discontinue this docket in the interest of administrative efficiency.

Decided: September 20, 2016.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.

Marline Simeon,

Clearance Clerk.

[FR Doc. 2016–23144 Filed 9–23–16; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 160527473–6473–01]

RIN 0648–BG09

Atlantic Highly Migratory Species; Individual Bluefin Quota Program; Inseason Transfers

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments; notice of public hearing.

SUMMARY: NMFS proposes to modify the Atlantic highly migratory species (HMS) regulations to provide additional flexibility regarding the distribution of inseason Atlantic bluefin tuna (BFT) quota transfers to the Longline category. The proposed rule would provide NMFS the flexibility to distribute quota inseason either to all qualified Individual Bluefin Quota (IBQ) share recipients (*i.e.,* share recipients who have associated their permit with a vessel) or only to permitted Atlantic Tunas Longline vessels with recent fishing activity, whether or not they are associated with IBQ shares.

DATES: Written comments must be received on or before October 26, 2016. NMFS will host an operator-assisted public hearing conference call and webinar on October 4, 2016, from 2 to 4 p.m. EDT, providing an opportunity for individuals from all geographic areas to participate. See **SUPPLEMENTARY INFORMATION** for further details.

ADDRESSES: You may submit comments on this document, identified by "NOAA–NMFS–2016–0067," by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0067,* click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Thomas Warren, Highly Migratory Species (HMS) Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 55 Great Republic Drive, Gloucester, MA 01930.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and generally will be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

The public hearing conference call information is phone number (888) 455–5378; participant passcode 5816248. Participants are strongly encouraged to log/dial in 15 minutes prior to the meeting. NMFS will show a brief presentation via webinar followed by public comment. To join the webinar, go to: *https://noaaevents3.webex.com/noaaevents3/onstage/g.php?MTID=e20e9f661ee7184823fb28b56cbf7d16f;* meeting number: 993 144 732; password: NOAA. Participants who have not used WebEx before will be prompted to download and run a plug-in program that will enable them to view the webinar.

Supporting documents, including the Regulatory Impact Review and Initial Regulatory Flexibility Analysis, may be downloaded from the HMS Web site at *www.nmfs.noaa.gov/sfa/hms/.* These documents also are available by contacting Thomas Warren at the mailing address specified above.

FOR FURTHER INFORMATION CONTACT: Thomas Warren or Sarah McLaughlin, 978–281–9260; Carrie Soltanoff, 301–427–8503.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006), as amended by Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7) (79 FR 71510, December 2, 2014), and in accordance with implementing regulations. The current baseline U.S. BFT quota and subquotas were established and analyzed in the BFT quota final rule (80 FR 52198, August 28, 2015). NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

Background

BFT fishing is managed domestically through a quota system (on a calendar-year basis), in conjunction with other management measures including gear restrictions, minimum fish sizes, closed areas, trip limits, and catch shares. NMFS implements the ICCAT U.S. quota recommendation, and divides the quota among U.S. fishing categories (*i.e.,* the General, Angling, Harpoon, Purse Seine, Longline, and Trap categories) and the Reserve category. Quotas are distributed on an annual basis, but NMFS also has the regulatory authority to make inseason adjustments to BFT quotas after the initial annual allocations, if the U.S. baseline quota increases as a result of an ICCAT recommendation or as a result of a transfer of quota from the Reserve category in accordance with specific regulatory determination criteria.

Vessels fishing with pelagic longline gear, which catch BFT incidentally while fishing for target species (primarily swordfish and yellowfin tuna), hold limited access Atlantic Tunas Longline permits and utilize Longline category quota. Through Amendment 7, NMFS established the IBQ Program, a catch share program that identified 136 permit holders as IBQ share recipients based on specified criteria, including historical target species landings and the bluefin catch-to-target species ratios from 2006 through 2012. Consistent with 50 CFR 635.15(b)(2), recipients received one of three shareholder percentages (low, medium, or high) based on their score related to these criteria.

The specific objectives of the IBQ Program were to:

1. Limit the amount of BFT landings and dead discards in the pelagic longline fishery;
2. Provide strong incentives for the vessel owner and operator to avoid BFT interactions, and thus reduce bluefin dead discards;
3. Provide flexibility in the quota system to enable pelagic longline vessels to obtain BFT quota from other vessels with available individual quota in order to enable full accounting for BFT landings and dead discards, and minimize constraints on fishing for target species;
4. Balance the objective of limiting bluefin landings and dead discards with the objective of optimizing fishing opportunities and maintaining profitability; and
5. Balance the above objectives with potential impacts on the directed permit categories that target BFT, and the broader objectives of the 2006 Consolidated HMS FMP and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

IBQ share recipients receive an annual allocation of the Longline category quota based on the percentage share they received through Amendment 7 but only if their permit is associated with a vessel in the subject year (*i.e.*, only "qualified IBQ share recipients" receive annual allocations). Permit holders that were not selected to receive IBQ shares through Amendment 7 may still fish, but they are required to lease quota. Leasing occurs through the IBQ electronic system. Every vessel must have a minimum amount of quota allocation to fish (described below), whether obtained through their shares or by leasing, and every vessel must individually account for its BFT landings and dead discards through the IBQ electronic system.

Delayed effective dates for some of the regulations implemented through Amendment 7 assisted in the transition to measures adopted in Amendment 7, which substantially increased individual vessel accountability for BFT bycatch (landings and dead discards) in the Longline fishery. During 2015, the first year of implementation of the IBQ Program, a pelagic longline vessel that had insufficient IBQ to account for its landings and dead discards (*i.e.*, went into "quota debt") was allowed to continue to fish, however any additional landings and dead discards continued to accrue, and the cumulative quota debt needed to be accounted for no later than December 31, 2015. In contrast, as of January 1, 2016, a vessel fishing with pelagic longline gear must have a minimum IBQ allocation to fish and may not fish if it has quota debt. A minimum allocation required to fish is 0.25 mt (551 lb) whole weight (ww) for a trip in the Gulf of Mexico and 0.125 mt ww (276 lb ww) for a trip in the Atlantic. Pelagic longline vessels may lease IBQ allocation from other such vessels or from Purse Seine fishery participants in the IBQ Program to obtain sufficient allocation for their trips or to account for quota debt.

In July 2015 and January 2016, NMFS transferred quota inseason from the Reserve category to the Longline category (80 FR 45098, July 29, 2015; 81 FR 19, January 4, 2016). In transferring quota inseason, NMFS considered the relevant regulatory determination criteria for inseason or annual adjustments under 50 CFR 635.27(a)(8) as required, and decided that allocation to the Longline category was warranted to increase the amount of quota available to the qualified IBQ share recipients and therefore help those permit holders account for BFT landings and dead discards, foster conditions in which permit holders became more willing to lease IBQ, allow continued fishing for available target species quota, and reduce uncertainty in the fishery as a whole. In these inseason actions, NMFS distributed the transferred quota in equal amounts to the 136 qualified IBQ share recipients, which included those with vessels actively fishing and those not actively fishing. NMFS distributed the quota transferred inseason equally in order to provide each qualified IBQ share recipient the minimum amount of IBQ allocation needed to fish. Given the small amount of quota being transferred to the category, distribution according to share holder percentages would have resulted in transfers below the minimum allocation needed to fish and would have made the transfer ineffective in easing the transition to the Amendment 7 measures as intended. During 2015, based on logbook data, 104 vessels fished with pelagic longline gear, 100 of which were vessels associated with IBQ shares and 4 of which were not. A total of 59 vessels landed BFT, and 2 vessels accounted for dead discards but did not land BFT.

Also during 2015, NMFS implemented a quota increase for the Longline category that resulted from an increase in the quota at ICCAT and the subsequent modification of the baseline annual U.S. BFT quota and subquotas (80 FR 52198, August 28, 2015). In adjusting the baseline annual quota upwards, NMFS also adjusted the annual quota distributions to the 136 qualified IBQ share recipients, based upon their shareholder percentages.

During 2015, 36 of the 136 qualified IBQ share recipients had no pelagic longline fishing activity (*i.e.*, they took no fishing trips with pelagic longline gear). Furthermore, 31 of the 36 qualified IBQ share recipients that did not fish also did not lease IBQ to others (*i.e.*, 31 neither fished nor leased and 5 did not fish, but leased out their IBQ allocations). As a result, their IBQ allocations went unused for the year and expired at year's end.

Since January 1, 2015, NMFS has received requests (among other suggestions about the IBQ Program and management of the pelagic longline fishery) to distribute quota inseason only to those vessels that are currently fishing (whether associated with IBQ shares or not) to optimize fishing opportunity and account for dead discards, rather than distributing it equally to all IBQ share recipients, some of whom end up neither using it nor making it available to other vessel owners. In advance of and at the March 2016 HMS Advisory Panel meeting, pelagic longline fishery participants expressed concerns about the availability of IBQ allocation as implemented under Amendment 7. Longline fishery participants have stated that, while they were able to obtain sufficient IBQ allocation by leasing it under the conditions that applied in 2015, those conditions were temporary. They are concerned that, as additional requirements now apply beginning in 2016, the IBQ Program could negatively impact vessel operations and finances given the pricing of IBQ, the distribution of quota among permit holders as implemented by Amendment 7, and the behavior of some permit holders who, for example, they say hold on to IBQ for the entire season without participating in the fishery or engaging in leasing. They also say that the expense of leasing IBQ allocation when needed can impact other operational costs such as crew pay. If availability is limited, or costs are prohibitive, the operational impacts increase. IBQ Program data analyzed in this action include the leases that were completed in 2015, and generally reflect that, for leasing transactions that occurred, sales revenue received per pound approximated the cost per pound of leasing IBQ. However, IBQ Program participants (which include any permit holder or vessel that leases quota to facilitate pelagic longline operations) and potential lessees have communicated that there were instances where the cost at which lessors were willing to lease their IBQ was prohibitive and leasing did not occur. Furthermore, expanded opportunities to fish with pelagic longline gear within the available swordfish and yellowfin tuna quotas are contingent on access to additional quota to account for BFT bycatch and discards. Longline fishery participants requested that NMFS take further steps to provide more access to quota for those vessels with recent fishing activity to reduce the dependence on qualified IBQ share recipients, some of whom are not participating in the fishery or engaging in leasing.

After looking at the issues raised by the fishery participants and at trends in IBQ leasing and utilization for 2015, it is apparent that additional flexibility is needed regarding the distribution of inseason transfers of BFT quota within the Longline category to assist NMFS in providing reasonable opportunities to fish for target species under the limits imposed by the IBQ Program and to optimize distribution of BFT quota transferred inseason to the Longline category, while at the same time encouraging the appropriate functioning of the IBQ Program, including its leasing provisions. As discussed above, 36 of 136 (*i.e.*, 26 percent) qualified IBQ share recipients that also received additional quota from inseason transfers did not fish in 2015, and 31 neither fished nor leased. Thus, under current conditions, the BFT quota from inseason transfers is not being distributed optimally and much of the Longline category BFT quota is going unused (136 mt in 2015). In addition, as discussed above, there were instances where permitted Atlantic Tunas Longline vessels sought to lease IBQ, but leasing did not occur due to cost prohibitive prices set by lessors. This underutilization of IBQ is not consistent with the third and fourth objectives of the IBQ Program, because it places unnecessary constraints on opportunities for longline fishery participants to fish for target species.

This proposed rule would modify the regulations to specify that distribution of quota transferred to the Longline category inseason (*i.e.*, beyond the baseline Longline category quota that is distributed to qualified IBQ share recipients) may be *either* to the qualified IBQ share recipients *or* to permitted Atlantic Tunas Longline vessels with recent fishing activity whether they are associated with qualified IBQ share recipients or not. NMFS would determine recent fishing activity through logbook, vessel monitoring system (VMS), or electronic monitoring data indicating fishing activity in the subject and previous year. For example, for inseason transfers in 2016, NMFS would examine fishing activity data for 2015 and 2016 to determine if there was fishing activity during that period. Providing flexibility in the quota system and maintaining flexibility of the regulations to account for the highly variable nature of the BFT fishery was an objective of Amendment 7 (See, *e.g.*, Amendment text at 79 FR 71510 and 71559).

In deciding whether to transfer additional quota to the Longline category inseason from the Reserve category, NMFS would continue to consider the 14 regulatory determination criteria for inseason or annual adjustments at 50 CFR 635.27(a)(8), including the need to "optimize fishing opportunity."

Next, NMFS would decide whether to distribute that quota transferred inseason to all qualified IBQ share recipients or only to permitted Atlantic Tunas Longline vessels with recent fishing activity whether or not they are associated with IBQ shares. This decision would be based on factors for the subject year and previous year, including the number of BFT landings and dead discards, the number of IBQ lease transactions, the average amount of IBQ leased, the average amount of quota debt, the annual amount of IBQ allocation, any previous inseason allocations of IBQ, the amount of BFT quota in the Reserve category, the percentage of BFT quota harvested by the other quota categories, the remaining number of days in the year, the number of active vessels fishing not associated with IBQ share, and the number of vessels that have incurred quota debt or that have low levels of IBQ allocation. In deciding which approach will be used, NMFS will consider which approach will best meet the specific objectives of the IBQ Program as stated in Amendment 7, including the objective of providing "flexibility in the quota system to enable pelagic longline vessels to obtain BFT quota from other vessels with available individual quota in order to enable full accounting for BFT landings and dead discards, and minimize constraints on fishing for target species." For example, in years where leasing by IBQ share recipients is not occurring as anticipated by Amendment 7 distribution to only active vessels, might be the appropriate approach to encourage leasing at levels that ensure appropriate functioning of the IBQ system in future years. In years where the leasing program is functioning well and leasing is occurring as needed, distribution may be to all of the qualified IBQ share recipients.

If NMFS decides to distribute the inseason quota to all qualified IBQ share recipients, those qualified IBQ share recipients would receive equal amounts of the quota transferred.

If NMFS decides to distribute inseason quota only to those vessels with recent fishing activity, vessels with "recent fishing activity" would be vessels determined by NMFS to have recent fishing activity in the pelagic longline fishery during the subject and previous year based upon available information such as logbook, VMS, or electronic monitoring data. The specific data and date range analyzed in a given inseason action would be those available at the time of year the inseason transfer occurs, and will depend on which complete data are available at that time. For example, logbook data for a particular year are typically not available for use until several months into the following year due to the process of data entry and quality control, as well as late reporting. Therefore, early in a year, NMFS may determine vessel activity for the previous and subject year using VMS data, whereas later in the year, it might use both logbook and VMS data.

Whether NMFS decides to distribute quota to all qualified IBQ recipients or to only those permitted vessels with recent fishing activity, quota transferred inseason would be distributed equally to the vessel account associated with the relevant vessel via the electronic IBQ system. In either case, when a qualified IBQ share recipient receives inseason quota, the quota will be designated as either Gulf of Mexico (GOM) IBQ, Atlantic (ATL) IBQ, or both GOM and ATL IBQ, according to the share recipient's regional designations. For vessels with recent fishing activity that are not qualified IBQ share recipients, NMFS would assign the distributed quota a regional designation based on where the majority of their "recent fishing activity" occurred for the relevant period analyzed.

The economic impacts of the proposed measures would differ only slightly from the impacts analyzed by Amendment 7. For example, if NMFS had opted in early 2016 to exercise the flexibility to distribute quota inseason to only those vessels with recent fishing activity, the number of vessels that would have received inseason quota would have been reduced from 136 to approximately 104, based on logbook data indicating the number of vessels with recent fishing activity in 2015, and each vessel would have received more quota. This increased allocation would help these active vessels to remain fishing longer under fewer quota constraints and would reduce the transaction costs associated with finding additional quota through the leasing program in years where leased quota is not readily available. The general goal would be to mitigate the type of situation that occurred in 2015, where over 25 percent of qualified IBQ share recipients were not actively fishing and, of them, 86 percent were not leasing IBQ allocation to other vessels through the IBQ Program. Distributing even more quota to vessels that are not fishing and not leasing the unused quota to other fishery participants mid-season does not minimize constraints on fishing for target species, nor does it help to meet objectives of the IBQ program, specifically to optimize fishing opportunities for those target species and to maintain profitability of the pelagic longline fleet.

The inactive vessels (*e.g.*, 36 qualified IBQ share recipients in 2015) would not receive inseason quota under the above scenario. Inactive vessels would not be fishing at the time, and thus would not have an immediate need for the quota to support their directed fishing operations. If they chose to fish later in the season, they would still have quota available for their use from their initial IBQ allocation for the year. Thus, the cost to inactive vessels of the proposed inseason distribution alternative would mainly be limited to the forgone ability to lease out their allocation. This cost is analyzed in the Initial Regulatory Flexibility Analysis. Under Amendment 7, the purpose of quota leasing was to facilitate directed fishing for Atlantic swordfish, other tunas, and other pelagic species, and to provide strong incentives for the vessel owners and operators to avoid BFT interactions, while also providing a mechanism for vessels to obtain more quota, if needed, given the required minimum allocation to fish. If IBQ share recipients do not plan to fish, the possibility of inseason quota transfers being distributed to active fishery participants might encourage them to lease their allocations to those participants earlier in the season. This in turn would facilitate a more effective IBQ leasing program and minimize any loss of potential IBQ leasing revenue.

In addition, providing quota inseason to permitted vessels with recent fishing activity would include some vessels with permits that did not qualify for IBQ share in Amendment 7. Such vessels may include new entrants to the fishery that have participated in the IBQ Program by leasing IBQ in order to fish initially. Notwithstanding the defined scope of qualified IBQ share recipients (136), the pelagic longline fishery participants change over time and include vessels with Atlantic Tunas Longline permits that did not qualify for IBQ shares and entry-level participants. Therefore the proposed regulation would assist new entry to the fishery when there is an inseason transfer of quota to the Longline category, or would help facilitate leasing by inactive vessels earlier in the season to facilitate such entry.

Request for Comments

NMFS solicits comments on this proposed rule through October 26, 2016. See instructions in **ADDRESSES** section.

Public Hearing Conference Call

NMFS will hold a public hearing conference call and webinar on October 4, 2016, from 2 p.m. to 4 p.m. EDT, to allow for an additional opportunity for interested members of the public from all geographic areas to submit verbal comments on the proposed quota rule.

The public is reminded that NMFS expects participants at public hearings and on conference calls to conduct themselves appropriately. At the beginning of the conference call, a representative of NMFS will explain the ground rules (all comments are to be directed to the agency on the proposed action; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; and attendees should not interrupt one another). The NMFS representative will attempt to structure the meeting so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject matter. If attendees do not respect the ground rules, they will be asked to leave the conference call.

Classification

The NMFS Assistant Administrator has determined that the proposed rule is consistent with the 2006 Consolidated HMS FMP and its amendments, the Magnuson-Stevens Act, ATCA, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

This action has been preliminarily determined to be categorically excluded from the requirement to prepare an environmental assessment (EA) in accordance with the National Environmental Policy Act and NOAA administrative order NAO 216–6 (as preserved by NAO 216–6A), subject to further consideration after public comment. The proposed action may by categorically excluded since it is a change to a previously analyzed and approved fishery management plan, and the proposed change will have no substantive effect, individually or cumulatively on the human environment beyond that already analyzed in the Environmental Impact Statement for Amendment 7 to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (79 FR 71510, December 2, 2014) and in the EA for the final rule that increased the U.S. BFT quota (for 2015 and until changed) based on the recommendation of the International Commission for the Conservation of Atlantic Tunas (80 FR 52198, August 28, 2015). Inseason quota allocations to the pelagic longline category do not modify the annual U.S. BFT quota nor the fishing mortality associated with that quota. Minor modifications of allocations to vessels contribute to determining when and where fishing mortality occurs, but do not alter the overall allowable mortality under the U.S. BFT quota. This action would not directly affect fishing effort, quotas, fishing gear, authorized species, interactions with threatened or endangered species, or other relevant parameters. Thus, there is no environmental or ecological effect different than what was analyzed previously. A final determination will be made prior to publication of the final rule for this action.

NMFS has prepared a Regulatory Impact Review (RIR), and an Initial Regulatory Flexibility Analysis (IRFA), which present and analyze anticipated social, and economic impacts of the alternatives contained in this proposed rule. The list of alternatives and their analyses are provided in the draft RIR and are not repeated here in their entirety. A copy of the draft RIR prepared for this proposed rule is available from NMFS (see **ADDRESSES**).

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA, 5 U.S.C. 603 *et seq.*), and is included below. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the **SUMMARY** section of the preamble.

The goal of the RFA is to minimize the economic burden of federal regulations on small entities. To that end, the RFA directs federal agencies to assess whether the proposed regulation is likely to result in significant economic impacts to a substantial number of small entities, and identify and analyze any significant alternatives to the proposed rule that accomplish the objectives of applicable statutes and minimizes any significant effects on small entities.

Description of the Reasons Why Action is Being Considered

Section 603(b)(1) of the RFA requires an IRFA to contain a description of the reasons why the action is being considered. The purpose of this proposed rule is, consistent with the 2006 Consolidated HMS FMP objectives, the Magnuson-Stevens Act, and other applicable law, to provide NMFS the flexibility to distribute quota inseason to all qualified IBQ share recipients (those who have associated their share with a vessel) or to permitted Atlantic Tunas Longline vessels with recent fishing activity whether or not they are associated with IBQ shares.

Since January 1, 2015, NMFS has received requests (among other suggestions about the IBQ Program and management of the pelagic longline fishery) to distribute quota inseason to those vessels that are currently fishing (whether associated with IBQ shares or not) to optimize fishing opportunity and account for dead discards, rather than distributing it equally to all IBQ share recipients, some of whom end up neither using it, nor making it available to other vessel owners. In advance of and at the March 2016 HMS Advisory Panel meeting, pelagic longline fishery participants expressed concerns about the availability of IBQ allocation as implemented under Amendment 7. Longline fishery participants have stated that, while they were able to obtain sufficient IBQ allocation by leasing it under the conditions that applied in 2015, those conditions were temporary. They are concerned that, as additional requirements now apply beginning in 2016, the IBQ Program could negatively impact vessel operations and finances given the pricing of IBQ, the distribution of quota among permit holders as implemented by Amendment 7, and the behavior of some permit holders who, for example, they say hold on to IBQ for the entire season without participating in the fishery or engaging in leasing. Longline fishery participants requested that NMFS take further steps to provide more access to quota for those vessels with recent fishing activity to reduce the dependence on qualified IBQ share recipients, some of whom are not participating in the fishery or engaging in leasing.

After looking at the issues raised by the fishery participants and at trends in IBQ leasing and utilization for 2015, it is apparent that additional flexibility is needed regarding the distribution of inseason transfers of BFT quota within the Longline category to assist NMFS in providing reasonable opportunities to fish for target species under the limits imposed by the IBQ Program and to optimize distribution of BFT quota transferred inseason to the Longline category. To account for the highly variable nature of the BFT fishery and maintain flexibility in the regulations, NMFS is considering this action, which provides flexibility in the quota system.

Statement of the Objectives of, and Legal Basis for, the Proposed Rule

Section 603(b)(2) of the RFA requires the IRFA to contain a statement of the objectives and legal basis for the proposed rule. The objective of this proposed rule is to provide additional flexibility regarding the distribution of inseason BFT quota transfers to the Longline category in order to facilitate the management of Atlantic HMS resources in a manner that maximizes resource sustainability and fishing opportunity, while minimizing, to the greatest extent possible, the socioeconomic impacts on affected fisheries.

The legal basis for this proposed rule stems from the dual authority of the Magnuson-Stevens Act and ATCA. Under the Magnuson-Stevens Act, NMFS must, consistent with ten National Standards, manage fisheries to maintain optimum yield (OY) by rebuilding overfished fisheries and preventing overfishing. Under ATCA, NMFS is authorized to promulgate regulations as may be necessary and appropriate to carry out binding recommendations of ICCAT. Additionally, any management measures must be consistent with other domestic laws including the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), and the Coastal Zone Management Act (CZMA).

Description and Estimate of the Number of Small Entities to Which the Proposed Rule Would Apply

Section 603(b)(3) of the RFA requires agencies to provide an estimate of the number of small entities to which the rule would apply. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the United States, including fish harvesters. SBA's regulations provide that an agency may develop its own industry-specific size standards after consultation with Advocacy and an opportunity for public comment (see 13 CFR 121.903(c)). Under this provision, NMFS may establish size standards that differ from those established by the SBA Office of Size Standards, but only for use by NMFS and only for the purpose of conducting an analysis of economic effects in fulfillment of the agency's obligations under the RFA. To utilize this provision, NMFS must publish such size standards in the **Federal Register**. In a final rule effective on July 1, 2016 (80 FR 81194, December 29, 2015), NMFS established a small business size standard of $11 million in annual gross receipts for all businesses in the commercial fishing industry (NAICS 11411) for RFA compliance purposes. NMFS considers all HMS Atlantic Tunas Longline permit holders (280 as of October 2015) to be small entities because these vessels have reported annual gross receipts of less than $11 million for commercial fishing. The average annual gross revenue per pelagic longline vessel was estimated to be $187,000 based on the 170 vessels that fished between 2006 and 2012, and that produced an estimated $31.8 million in total revenue annually. The maximum annual revenue for any pelagic longline vessel between 2006 and 2015 was $1.9 million, well below the NMFS small business size threshold of $11 million in gross receipts for commercial fishing.

NMFS has determined that this proposed rule would apply to the small businesses associated with the 136 Atlantic Tunas Longline permits with IBQ shares and the additional permitted Atlantic Tunas Longline vessels that fish with quota leased through the IBQ Program. The impacts on these small businesses are described below in the discussion of alternatives considered. NMFS has determined that this action would not likely directly affect any small organizations or small government jurisdictions defined under the RFA.

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of the Proposed Rule, Including an Estimate of the Classes of Small Entities Which Would Be Subject to the Requirements of the Report or Record

Section 603(b)(4) of the RFA requires agencies to describe any new reporting, record-keeping and other compliance requirements. This proposed rule does not contain any new collection of information, reporting, or record-keeping requirements.

Identification of All Relevant Federal Rules Which May Duplicate, Overlap, or Conflict With the Proposed Rule

Under section 603(b)(5) of the RFA, agencies must identify, to the extent practicable, relevant Federal rules which duplicate, overlap, or conflict with the proposed action. Fishermen, dealers, and managers in these fisheries must comply with a number of international agreements, domestic laws, and other FMPs. These include, but are not limited to, the Magnuson-Stevens Act, ATCA, High Seas Fishing Compliance Act, MMPA, ESA, NEPA, Paperwork Reduction Act, and CZMA. This proposed action has been determined not to duplicate, overlap, or conflict with any of these statutes or Federal rules.

Description of Any Significant Alternatives to the Proposed Rule That Accomplish the Stated Objectives of the Applicable Statutes and That Minimize Any Significant Economic Impact of the Proposed Rule on Small Entities

One of the requirements of an IRFA is to describe any alternatives to the proposed rule which accomplish the stated objectives and which minimize any significant economic impacts. These impacts are discussed below. Additionally, the RFA (5 U.S.C. 603(c)(1)–(4)) lists four general categories that would assist an agency in the development of significant alternatives. These categories of alternatives are: (1) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and (4) exemptions from coverage of the rule, or any part thereof, for small entities.

In order to meet the objectives of this proposed rule, consistent with the Magnuson-Stevens Act and ATCA, NMFS cannot establish differing compliance requirements for small entities or exempt small entities from compliance requirements. Thus, there are no alternatives discussed that fall under the first and fourth categories described above. As the IBQ Program was designed to adhere to performance standards, modifications to the regulations implementing the IBQ Program simply make adjustments to the administration of those underlying performance standards. NMFS analyzed several different alternatives to this action. Following are the rationales that NMFS used to determine the preferred alternative for achieving the desired objectives.

The first alternative is the "no action" (status quo) alternative. The second alternative, the preferred alternative, would provide NMFS the flexibility to allocate quota inseason to qualified IBQ share recipients (those who have associated their share with a vessel) or to permitted Atlantic Tunas Longline vessels with recent fishing activity, whether or not they are associated with IBQ shares. The third alternative would provide NMFS the flexibility to allocate quota inseason to qualified IBQ share recipients with recent fishing activity or IBQ leasing activity. The economic impacts of these three alternatives are detailed below.

Under all three alternatives, NMFS would continue to consider the regulatory determination criteria for inseason or annual adjustments under 50 CFR 635.27(a)(8), and if NMFS decided that inseason allocation to the Longline category was warranted to increase the amount of quota available to pelagic longline vessels, NMFS would allocate additional quota. The difference among the alternatives is in the specific Atlantic Tunas Longline permit holders that would receive distribution of inseason BFT quota.

Under the "no action" alternative, NMFS would distribute the transferred quota in equal amounts to all 136 qualified IBQ share recipients, which include vessels actively fishing and vessels not actively fishing. This is the manner in which NMFS conducted two past inseason transfers from the Reserve to the Longline category in July 2015 and January 2016 (80 FR 45098, July 29, 2015; 81 FR 19, January 4, 2016). For each of these 34 mt quota transfers, 0.25 mt (551 lb) of IBQ were distributed equally to each of the 136 qualified IBQ share recipients under Amendment 7. IBQ allocation was distributed via the electronic IBQ system to the vessel accounts with permits with IBQ shares associated with a vessel. For those permits with IBQ shares that were not associated with a vessel at the time of the quota transfer, the IBQ is not usable by the permit holder (*i.e.,* may not be leased or used to account for BFT) until the permit is associated with a vessel. Based on the average 2015 IBQ lease price of $3.34 per pound, the economic value of such an inseason transfer of 551 lb per vessel would be approximately $1,840 per vessel owner under the "no action" alternative.

Under the preferred alternative, NMFS would have the flexibility to allocate quota inseason either to each of the 136 qualified IBQ share recipients or to all permitted Atlantic Tunas Longline vessels with recent fishing activity. In 2015, there were 104 active pelagic longline vessels (based on logbook data). If NMFS assumes, for example, a future inseason transfer of 34 mt distributed equally among vessels with recent fishing activity, each of those 104 active vessels would receive 0.327 mt (721 lb) under the preferred alternative. Based on the average 2015 IBQ lease price of $3.34 per pound, the economic value of such an inseason transfer of 721 lb per vessel would be approximately $2,408 per vessel owner under the preferred alternative. Active vessel owners would receive $568 more in value (31 percent more quota) than under the "no action" (status quo) alternative.

This increased allocation would help these active vessels to remain fishing longer under fewer quota constraints and reduce the transaction costs associated with finding the same amount of additional quota. The qualified IBQ share recipients with no fishing activity (36 in 2015) would not receive the 551 lb of IBQ worth approximately $1,840 per vessel that they could have received under the status quo alternative *if* they were to lease their quota to other permit holders. Thus, the cost of this alternative would mainly be limited to the forgone ability to lease out allocation that they otherwise would have received. Under Amendment 7, the purpose of leasing is to accommodate various levels of unintended catch of bluefin and to facilitate directed fishing for Atlantic swordfish, other tunas, and other pelagic species. The few Atlantic Tunas Longline vessels that fished that were not associated with IBQ shares but that leased allocation from qualified IBQ share recipients (4 in 2015) would receive quota under the preferred alternative worth approximately $2,408 per vessel. Such an inseason transfer would help facilitate participation by new entrants to the fishery by lowering their costs to obtain quota.

Under the third alternative, NMFS would have the flexibility to distribute quota inseason to qualified IBQ share recipients with recent fishing activity or qualified IBQ share recipients that leased out quota to other Atlantic Tunas Longline permit holders. This differs from the preferred alternative in two key ways. First, under the third alternative, only Atlantic Tunas Longline permit holders with recent activity would receive an inseason transfer, while under the preferred alternative all permitted Atlantic Tunas Longline vessels with recent activity would receive an inseason transfer. Secondly, under the third alternative, relevant activity would include IBQ leasing activity in addition to the recent fishing activity required under the preferred alternative. In 2015, of the 104 pelagic longline vessels with recent fishing activity, 100 vessels were associated with IBQ shares that had recent fishing activity (four vessels were not associated with IBQ shares in 2015) and 5 vessels were associated with IBQ shares that did not fish but did lease their allocation to other vessels. If NMFS assumes a future inseason transfer of 34 mt, each of those 105 vessels associated with IBQ shares (100 with recent fishing activity and 5 that leased IBQ allocation) would receive 0.324 mt (714 lb) under the third alternative. Based on the average 2015 IBQ lease price of $3.34 per pound, the economic value of such an inseason transfers of 714 lb per vessel would be approximately $2,385 per vessel owner. Vessels associated with IBQ shares with recent fishing activity or IBQ leasing activity would receive $545 more in value (30 percent more quota) than under the "no action" (status quo) alternative. This is $23 less per vessel than under the preferred alternative. In addition, under the third alternative, fewer vessels with recent fishing activity would receive quota and new entrants would not receive quota. For these reasons, NMFS does not prefer the third alternative.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: September 15, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

■ 2. In § 635.15, revise paragraph (b) introductory text, and add paragraph (b)(9) to read as follows:

§ 635.15 Individual bluefin tuna quotas.

* * * * *

(b) *IBQ allocation and usage.* An initial IBQ quota allocation is the amount of bluefin tuna (whole weight) in metric tons (mt) that a qualified IBQ share recipient (*i.e.,* a share recipient who has associated their permit with a vessel) is allotted to account for incidental catch of bluefin tuna during a specified calendar year. Unless otherwise required under paragraph (b)(5) of this section, an Atlantic Tunas Longline permitted vessel's initial IBQ allocation for a particular year is derived by multiplying its IBQ share (percentage) by the initial Longline category quota for that year. NMFS may transfer additional quota to the Longline category inseason as authorized under § 635.27(a), and in accordance with § 635.27(a)(8) and (9), and may distribute the transferred quota within the Longline category in accordance with paragraph (b)(9) of this section.

* * * * *

(9) *Distribution of additional Longline category quota transferred inseason.* NMFS may distribute the quota that is transferred inseason to the Longline category either to all IBQ share recipients as described under paragraph (k)(1) of this section or to permitted Atlantic Tunas Longline vessels that are determined by NMFS to have recent fishing activity based on participation in the pelagic longline fishery. In making this determination, NMFS will consider factors for the subject and previous year such as the number of BFT landings and dead discards, the number of IBQ lease transactions, the average amount of IBQ leased, the average amount of quota debt, the annual amount of IBQ allocation, any previous inseason allocations of IBQ, the amount of BFT quota in the Reserve category (at § 635.27(a)(7)(i)), the percentage of BFT quota harvested by the other quota categories, the remaining number of days in the year, the number of active vessels fishing not associated with IBQ share, and the number of vessels that have incurred quota debt or that have low levels of IBQ allocation. NMFS will determine if a vessel has recent fishing activity based upon the best available information for the subject and previous year, such as logbook, vessel monitoring system, or electronic monitoring data. Any distribution of quota transferred inseason will be equal among selected recipients; when inseason distribution is only to Atlantic Tunas Longline permit holders with IBQ shares, it will therefore not be based on the initial IBQ share determination as specified in paragraph (k)(2) of this section.

(i) Regional designations described in paragraph (b)(2) of this section will be applied to inseason quota distributed to IBQ share recipients.

(ii) For permitted Atlantic Tunas Longline vessels with recent fishing activity that are not qualified IBQ share recipients, regional designations of Atlantic (ATL) or Gulf of Mexico (GOM) will be applied to the distributed quota based on best available information regarding geographic location of sets as reported to NMFS during the period of fishing activity analyzed above in this paragraph, with the designation based on where the majority of that activity occurred.

* * * * *

[FR Doc. 2016–22902 Filed 9–23–16; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 81, No. 186
Monday, September 26, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Submission for OMB Review; Comment Request

September 21, 2016.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by October 26, 2016 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: Child and Adult Care Food Program.

OMB Control Number: 0584–0055.

Summary of Collection: Section 17 of the National School Lunch Act, as amended (42 U.S.C. 1766), authorizes the Child and Adult Care Program (CACFP). Under this program, the Secretary of Agriculture is authorized to provide cash reimbursement and commodity assistance, on a per meal basis, for food service to children in nonresidential child care centers and family or group day care homes, and to eligible adults in nonresidential adult day care centers. The Food and Nutrition Service (FNS) has established application, monitoring, recordkeeping, and reporting requirements to manage the Program effectively, and ensure that the legislative intent of this mandate is responsibly implemented.

Need and Use of the Information: The information collected is necessary to enable institutions wishing to participate in the CACFP to submit applications to the administering agencies, execute agreements with those agencies, and claim the reimbursement to which they are entitled by law. FNS and State agencies administering the program will use the collected information to determine eligibility of institutions to participate in the CACFP, ensure acceptance of responsibility in managing an effective food service, implement systems for appropriating program funds, and ensure compliance with all statutory and regulatory requirements.

Description of Respondents: Business or other for-profit; Not-for-profit institutions; State, Local, or Tribal Government; and Individuals or households.

Number of Respondents: 3,030,006.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Monthly and Annually.

Total Burden Hours: 2,481,136.

Food and Nutrition Service

Title: Supplemental Nutrition Assistance Program (SNAP), Trafficking Controls and Fraud Investigations.

OMB Control Number: 0584–0587.

Summary of Collection: The Food and Nutrition Service (FNS) requires State agencies to issue a warning notice to withhold replacement electronic benefit transfer (EBT) cards or a warning notice for excessive EBT card replacements for individual members of a Supplemental Nutrition Assistance Program (SNAP) household requesting four EBT cards in a 12-month period. These notices are being issued to educate SNAP recipients on use of the EBT card and to deter fraudulent activity.

Need and Use of the Information: The data collected will be used for statutory and regulatory compliance. The data is gathered at various times, ranging from monthly, quarterly, annual or final submissions. Without the information, FNS would be unable to ensure integrity or effectively monitor any over-issued, under-issued, or trafficking.

Description of Respondents: 267,915 Individuals/Households and 53 State, Local or Tribal Government.

Number of Respondents: 267,968.

Frequency of Responses: Reporting: Quarterly, Semi-annually, Monthly; Annually.

Total Burden Hours: 21,940.41.

Charlene Parker,
Departmental Information Collection Clearance Officer.

[FR Doc. 2016–23060 Filed 9–23–16; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Resource Coordinating Committee

AGENCY: Forest Service, USDA.

ACTION: Call for nominations.

SUMMARY: The United States Department of Agriculture (USDA) is seeking nominations for the Forest Resource Coordinating Committee (Committee) pursuant to Section 8005 of the Food, Conservation, and Energy Act of 2008 (Act) (Pub. L. 110–246), and the Federal Advisory Committee Act (FACA), (5 U.S.C. App. 2). Additional information on the Committee can be found by visiting the Committee's Web site at: *http://www.fs.fed.us/spf/coop/frcc/.*

DATES: Written nominations must be received by November 14, 2016. Nominations must contain a completed application packet that includes the nominee's name, resume, cover letter, and completed Form AD–755 (Advisory Committee or Research and Promotion Background Information). The package must be sent to the name and address below.

ADDRESSES: Scott Stewart, USDA Forest Service, Office of Cooperative Forestry, Sidney R. Yates Federal Building, 201 14th Street SW., Mailstop 1123, Washington, DC 20024 by express mail delivery or overnight courier service. Nominations sent via the U.S. Postal Service must be sent to the following address: USDA Forest Service, Office of Cooperative Forestry, State & Private Forestry, Mailstop 1123, 1400 Independence Avenue SW., Washington, DC 20250–1123.

FOR FURTHER INFORMATION CONTACT: Lori McKean, Forest Resource Coordinating Committee Program Coordinator, by telephone at 570–296–9672 or Scott Stewart, Designated Federal Officer (DFO), by telephone at 202–205–1190. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 5 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the provisions of FACA, the Secretary of Agriculture is seeking nominations to fill five vacancies that will occur when current appointments expire in December 2016 and January 2017. One vacancy is currently available. The purpose of the Committee is to continue providing direction and coordination of actions within USDA, and coordination with State agencies and the private sector, to effectively address the national priorities for private forest conservation, with specific focus on owners of non-industrial private forest land as described in Section 8005 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246). These priorities include:

1. Conserving and managing working forest landscapes for multiple values and uses.
2. Protecting forests from threats, including catastrophic wildfires, hurricanes, tornadoes, windstorms, snow or ice storms, flooding, drought, invasive species, insect or disease outbreak, or development, and restoring appropriate forest types in response to such threats, and
3. Enhancing public benefits from private forests, including air and water quality, soil conservation, biological diversity, carbon storage, forest products, forestry-related jobs, production of renewable energy, wildlife, wildlife corridors and wildlife habitat, and recreation.

Vacancies

Members appointed to the Committee will be fairly balanced in terms of the points of view represented, functions to be performed, and will represent a broad array of expertise, leadership, and relevancy to a membership category. Geographic balance and a balanced distribution among the categories are also important. Representatives from the following categories will be appointed by the Secretary with staggered terms up to 3 years: (1) Non-industrial Private Forest Landowner (2 vacancies); (2) Private Forestry Consultant (1 vacancy); (3) Conservation District (1 vacancy); and (4) Conservation Organization (1 vacancy). These positions must be associated with such organizations and be willing to represent that sector as it relates to non-industrial private forestry. Vacancies will be filled in the manner in which the original appointment was made.

Nomination and Application Instructions

The appointment of members to the Committee is made by the Secretary of Agriculture.

The public is invited to submit nominations for membership on the Forest Resource Coordinating Committee, either as a self-nomination or a nomination of any qualified and interested person.

Any individual or organization may nominate one or more qualified persons to represent the above vacancies on the Forest Resource Coordinating Committee. To be considered for membership, nominees must provide the following—

1. A resume showing past experience in working successfully as part of a group working on issues and priorities related to the vacancies;
2. A cover letter with a rationale for serving on the Committee and what you can contribute;
3. A completed Form AD–755, Advisory Committee or Research and Promotion Background Information. The Form AD–755 may be obtained from the Forest Service contacts or from the following Web sites: *http://www.fs.fed.us/spf/coop/frcc/* and *http://www.OCIO.usda.gov/document/ad-755;* and
4. Letters of recommendation are welcome.

All nominations will be vetted by USDA. A list of qualified applicants will be prepared from which the Secretary of Agriculture shall appoint members to the Forest Resource Coordinating Committee. Applicants are strongly encouraged to submit nominations via overnight mail or delivery to ensure timely receipt by the USDA. Members of the Committee will serve without compensation, but may be reimbursed for travel expenses while performing duties on behalf of the Committee, subject to approval by the DFO.

Equal opportunity practices, in line with USDA policies, will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by the Departments, membership will, to the extent practicable, include individuals with demonstrated ability to represent all racial and ethnic groups, women and men, and persons with disabilities.

Dated: September 16, 2016.

Gregory L. Parham,

Assistant Secretary for Administration.

[FR Doc. 2016–23219 Filed 9–23–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Deschutes Provincial Advisory Committee (PAC) will meet in Prineville, Oregon. The committee is authorized pursuant to the implementation of E–19 of the Record of Decision and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to provide advice and make recommendations to promote a better integration of forest management activities between Federal and non-Federal entities to ensure that such activities are complementary. PAC information can be found at the following Web site: *http://www.fs.usda.gov/detail/deschutes/workingtogether/advisorycommittees.*

DATES: The meeting will be held on October 21, 2016, from 9:00 a.m. to 4:00 p.m.

All PAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Oregon State Extension Office, 498

SE Lynn Blvd., Prineville, Oregon. The Committee will also be traveling to recreation sites on the Ochoco National Forest.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Deschutes National Forest Headquarters Office. Please call ahead at 541–383–4769 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Beth Peer, Deschutes PAC Coordinator, by phone at 541–383–4769 or via email at *bpeer@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Hear a presentation on climate change and water,
2. Discuss focus areas, and
3. Visit recreation sites on the Ochoco National Forest.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by October 7, 2016, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Beth Peer, Deschutes PAC Coordinator, 63095 Deschutes Market Road, Bend, Oregon 97701; or by email to *bpeer@fs.fed.us,* or via facsimile to 541–383–4755.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation, For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: September 14, 2016.

John Allen,

Forest Supervisor, Deschutes National Forest.

[FR Doc. 2016–23083 Filed 9–23–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Warm Spring Habitat Enhancement EIS—Helena-Lewis and Clark National Forest, Jefferson County, Montana

AGENCY: Forest Service, USDA.

ACTION: Withdrawal of Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: The USDA Forest Service is withdrawing the Notice of Intent to prepare an Environmental Impact Statement for the Warm Spring Habitat Enhancement project on the Helena-Lewis and Clark National Forest. A Notice of Intent to prepare an Environmental Impact Statement was published in the **Federal Register** on October 9, 2009 (pages 52174–52175)

FOR FURTHER INFORMATION CONTACT: Jennifer Woods, Helena-Lewis and Clark National Forest, 1220 38th Street North, Great Falls, Montana 59405, (406) 791–7765.

Dated: September 14, 2016.

William Avey,

Forest Supervisor, Helena-Lewis and Clark National Forest.

[FR Doc. 2016–22702 Filed 9–23–16; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE899

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Joint *Scallop* Advisory Panel (AP) and Plan Development Team (PDT) to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, October 13, 2016, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Hilton Garden Inn, Boston Logan, 100 Boardman Street, Boston, MA 02128; Phone: (617) 567–6789; Fax: (617) 461–0798.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The *Scallop* AP and PDT will review Framework 28 (FW28) alternatives and analyses. The primary focus of this meeting will be to provide input on the range of specification alternatives that may be included in FW28. FW28 will set specifications including ABC/ACLs, DAS, access area allocations for LA and LAGC, hard-TAC for NGOM management area, target-TAC for LAGC incidental catch and set-asides for the observer and research programs for fishing year 2017 and default specifications for fishing year 2018. Management measures in FW28 include: (1) Measures to restrict the possession of *shell* stock inshore of 42°20′ N.; (2) measures to apply spatial management to fishery specifications (ACL flowchart); (3) measures to modify the Closed Area I access area boundary, consistent with potential changes to habitat and *groundfish* mortality closed areas. The AP/PDT may also discuss scallop related issues under consideration in *groundfish* Framework 56. Other business will be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at 978–465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 21, 2016.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–23075 Filed 9–23–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE689

Marine Mammals; File No. 18529

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that a permit has been issued to Janice Straley, University of Alaska Southeast, 1332 Seward Ave., Sitka, AK 99835, to conduct research on cetaceans.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

FOR FURTHER INFORMATION CONTACT: Carrie Hubard or Amy Sloan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On June 27, 2016, notice was published in the **Federal Register** (81 FR 41524) that a request for a permit to conduct research on large whales had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Permit No. 18529 authorizes research on large whales in Alaska, focusing on humpback whales (*Megaptera novaeangliae*), sperm whales (*Physeter macrocephalus*), and killer whales (*Orcinus orca*). Research methods include photo-identification, behavioral observations, biopsy sampling, suction cup and dart tagging, underwater photography/video, and prey-mapping sonar. Prey samples, blow, sloughed skin and feces would also be collected. In addition to the three focus species, six other large whale species and seven small cetacean species would be targeted for research. The permit expires on August 31, 2021.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

As required by the ESA, issuance of this permit was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: September 21, 2016.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–23099 Filed 9–23–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0649–XE898

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will hold a meeting of its Law Enforcement Technical Committee (LETC), in conjunction with the Gulf States Marine Fisheries Commission's Law Enforcement Committee (LEC).

DATES: The meeting will convene on Thursday, October 13, 2016; starting 8:30 a.m. and will adjourn at 5 p.m.

ADDRESSES: The meeting will be held at the JW Marriott New Orleans, located at 614 Canal Street, New Orleans, LA 70130; telephone: (504) 525–6500.

Council address: Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Atran, Senior Fishery Biologist, Gulf of Mexico Fishery Management Council; *steven.atran@gulfcouncil.org,* telephone: (813) 348–1630, and Mr. Steve Vanderkooy, Inter-jurisdictional Fisheries Coordinator, Gulf States Marine Fisheries Commission; *svanderkooy@gsmfc.org,* telephone: (228) 875–5912.

SUPPLEMENTARY INFORMATION: The items of discussion on the agenda are as follows:

Thursday, October 13, 2016, 8:30 a.m.–5 p.m.

1. Welcome
2. LEC and LETC Voting Procedures
3. Adoption of Agenda
4. Election of GMFMC LETC Chair and Vice-chair
5. Election of GSMFC LEC Chair and Vice-chair
6. Approval of Minutes
   a. Approval of minutes of March 16, 2016 Joint LEC/LETC meeting

Gulf Council LETC Items

7. Solicitation for Candidates for 2017 Officer of the Year Award
8. Draft Reef Fish Amendment 36A—Commercial IFQ Program Modifications
9. Draft Reef Fish Amendment 46—Gray Triggerfish Rebuilding Plan
10. Draft Generic Amendment to Require Electronic Reporting for For-hire Vessels
11. Draft Framework Action—Mutton Snapper ACL and Management Measures and Gag Commercial Size Limit

GSMFC LEC Items

12. Anthropocene Institute's Marine Managed Area Project
13. State Boundary and Jurisdictional Extensions
14. Approval of GSMFC Pubs
    a. Strategic Plan 2017–2020
    b. Operations Plan 2017–2018
15. IJF Program Activity
    a. Tripletail
    b. Atlantic Croaker
16. State Report Highlights
    a. Florida
    b. Alabama
    c. Mississippi
    d. Louisiana
    e. Texas
    f. USCG
    g. NOAA OLE
    h. USFWS
17. Other Business

—Meeting Adjourns—

The Agenda is subject to change. The latest version of the agenda along with other meeting materials will be posted on the Council's file server, which can be accessed by going to the Council Web site at *http://www.gulfcouncil.org* and clicking on File Server under Quick Links. For meeting materials see folder "LETC Meeting—2016–10" on Gulf Council file server. The username and password are both "gulfguest".

The Law Enforcement Technical Committee consists of principal law enforcement officers in each of the Gulf States, as well as the NOAA Law Enforcement, U.S. Fish and Wildlife Service, the U.S. Coast Guard, and the NOAA General Counsel for Law Enforcement.

Although other non-emergency issues not on the agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Dated: September 21, 2016.

Tracey Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–23067 Filed 9–23–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE890

Takes of Marine Mammals Incidental to Specified Activities; U.S. Navy Training and Testing Activities in the Mariana Islands Training and Testing Study Area and the Atlantic Fleet Training and Testing Study Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of issuance of modified Letters of Authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that modified Letters of Authorization (LOAs) have been issued to the U.S. Navy (Navy) for the take of marine mammals incidental to training and testing activities conducted in the Mariana Islands Training and Testing (MITT) Study Area and the Atlantic Fleet Training and Testing (AFTT) Study Area. These modifications reflect changes to Navy watchstander (lookout) reporting requirements, which do not affect current mitigation measures, for observed behavior of marine mammals during Major Training Exercises (MTEs) in the MITT and AFTT study areas.

DATES: MITT: Effective through April 3, 2020; AFTT: Effective through November 13, 2018.

ADDRESSES: The LOAs and supporting documentation are available online at: *www.nmfs.noaa.gov/pr/permits/incidental/military.htm.* In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: John Fiorentino, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

The National Defense Authorization Act of 2004 (Pub. L. 108–136) removed the "small numbers" and "specified geographical region" limitations indicated above and amended the definition of "harassment" as applies to a "military readiness activity" to read as follows (section 3(18)(B) of the MMPA, 16 U.S.C. 1362(18)(B)): "(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild" (Level A Harassment); or "(ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered" (Level B Harassment).

Summary of Request

On December 4, 2013 and August 3, 2015, NMFS issued regulations under the MMPA governing the unintentional taking of marine mammals incidental to training and testing activities conducted in the AFTT and MITT study areas, respectively (78 FR 73010; 80 FR 46112). These regulations allowed us to issue LOAs for the incidental take of marine mammals during the Navy's specified activities and timeframes, set forth the permissible methods of taking, set forth other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, and set forth requirements pertaining to the monitoring and reporting of the incidental take. On June 3, 2015, proposed changes to the watchstander reporting requirements for AFTT and MITT (and other active Navy Phase II training and testing rulemakings—*i.e.,* Hawaii-Southern California Training and Testing; Gulf of Alaska Temporary Maritime Activities Area Training) were included in the proposed rule for the Navy's training and testing activities in the Northwest Training and Testing (NWTT) Study Area (80 FR 31738). There were no comments received on the proposed watchstander modifications during the 45-day public comment period for the NWTT proposed rule, and NMFS issued regulations reflecting the new watchstander reporting modifications on November 24, 2015 (80 FR 73556).

Authorization

We have issued modified LOAs to the Navy authorizing the take of marine mammals incidental to training and testing activities, as described above; no changes to the LOAs other than the watchstander reporting modifications have been made. With these watchstander modifications, the Navy would no longer be required to report individual marine mammal sighting information when mitigation is not being implemented during the MTEs. After five years of collecting marine mammal sighting data for all animals sighted during MTEs, NMFS and the Navy have determined that this data set does not provide for any meaningful analysis beyond that which may be possible using mitigation-related observations alone because the Navy is unable to identify species information. NMFS and the Navy have thoroughly investigated several potential uses for the data prior to reaching this conclusion. Additionally, as discussed during the adaptive management process, this reporting requirement places an administrative burden on ships' watch teams, which is undue, given that the information collected does not contribute to any meaningful analysis. The Navy will continue to collect marine mammal sighting data during MTEs for every instance when any form of mitigation is employed, such as powering down or securing sonar, maneuvering the ship, or delaying an event—in other words, in instances where animals are closer to the sound source around which mitigation measures are implemented. This data is useful in supporting mitigation effectiveness analyses and also may be helpful in supporting an understanding of the frequency with which marine mammals (generally, not by species) may be encountered or detected in close proximity to a particular source (*e.g.*, where the likelihood of auditory or other injury is higher).

Dated: September 20, 2016.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–22997 Filed 9–23–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE907

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Whiting Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, October 13, 2016 at 10 a.m.

ADDRESSES:

Meeting address: The meeting will be held at the Hilton Garden Inn, One Thurber Street, Warwick, RI 02886 telephone: (401) 734–9600.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Committee will receive a report on Amendment 22 limited access qualification alternatives developed during the October 6, 2016 Joint Advisory Panel (AP)—Plan Development Team (PDT) meeting. They will also receive a summary of the 2015 Annual Monitoring Report from the PDT as well as discuss scheduling of actions and priorities for 2017. The Committee will have a closed session to review of AP applications for 2018–20 and make recommendations for approval to the Council's Executive committee. Other business, as necessary.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 21, 2016.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–23127 Filed 9–23–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Intent To Grant Exclusive Patent License to GoXtudio, Inc.; Tempe, AZ

AGENCY: Department of the Army, DoD.

ACTION: Notice of intent.

SUMMARY: In compliance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i), the Department of the Army hereby gives notice of its intent to grant to GoXtudio, Inc.; a corporation having its principle place of business at 2121 S. Mill Ave. Suite 214, Tempe, AZ 85282, exclusive license in the fields of ankle and knee braces incorporating rate-actuated tether (RAT) straps. The proposed license would be relative to the following:

- U.S. Patent Number 9,303,717 entitled "Rate Responsive, Stretchable Devices", Inventors Wetzel and Nenno, Issue Date March 16, 2016.
- U.S. Patent Application Number 15/057,944 entitled "Rate Responsive, Stretchable Devices, Further Improvements", Inventors Wetzel and Nenno, Filed March 1, 2016.

DATES: The prospective partially exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the U.S. Army Research Laboratory receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by the U.S. Army Research Laboratory within fifteen (15) days from the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Send written objections to U.S. Army Research Laboratory Technology Transfer and Outreach Office, RDRL–DPT/Thomas Mulkern, Building 321 Room 110, Aberdeen Proving Ground, MD 21005–5425.

FOR FURTHER INFORMATION CONTACT: Thomas Mulkern, (410) 278–0889, Email: *ORTA@arl.army.mil.*

SUPPLEMENTARY INFORMATION: None.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2016–23084 Filed 9–23–16; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Board of Visitors of Marine Corps University

AGENCY: Department of the Navy, DOD.

ACTION: Notice of open meeting.

SUMMARY: The Board of Visitors of the Marine Corps University (BOV MCU) will meet to review, develop and provide recommendations on all aspects of the academic and administrative policies of the University; examine all aspects of professional military education operations; and provide such oversight and advice, as is necessary, to facilitate high educational standards and cost effective operations. The Board will be focusing primarily on the internal procedures of Marine Corps University. All sessions of the meeting will be open to the public.

DATES: The meeting will be held on Thursday, 13 October 2016, from 0800–

1630 and Friday, 14 October, 2016, from 0800 to 1130.

ADDRESSES: The meeting will be held at Marine Corps University in Quantico, Virginia. The address is: 2076 South St., Quantico, VA.

FOR FURTHER INFORMATION CONTACT: Dr. Kim Florich, Director of Faculty Development and Outreach, Marine Corps University Board of Visitors, 2076 South Street, Quantico, Virginia 22134, telephone number 703–432–4682.

Dated: September 19, 2016.

N.A. Hagerty-Ford,

Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2016–23012 Filed 9–23–16; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Board of Advisors (BOA) to The Presidents of the Naval Postgraduate School (NPS) and the Naval War College (NWC)

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of The Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meeting of the Board of Advisors to the Presidents of the Naval Postgraduate School and the Naval War College Committee (NPS/NWC BOA) and its two subcommittees will be held. This meeting will be open to the public. For more information about the Committee, please visit *http://my.nps.edu/web/board-of-advisors.*

DATES: The meeting will be held on Wednesday, October 19, 2016, from 9:00 a.m. to 5:00 p.m. and on Thursday, October 20, 2016 from 9:00 a.m. to 12:00 p.m. Eastern Time Zone.

ADDRESSES: The meeting will be held at 3003 Washington Boulevard, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Ms. Jaye Panza, Designated Federal Official, Naval Postgraduate School, 1 University Circle, Monterey, CA 93943–5001, telephone number 831–656–2514.

SUPPLEMENTARY INFORMATION: The Committee examines the effectiveness with which the NPS and the NWC are accomplishing its missions. The agenda is as follows:

1. October 19, 2016, 9:00 a.m.–12:00 p.m.: The NPS BOA Subcommittee will meet to inquire into programs and curricula; instruction; administration; state of morale of the student body, faculty, and staff; fiscal affairs of NPS. The committee will review any other matters relating to the operations of the NPS as the board considers pertinent.

2. October 19, 2016, 1:00 p.m.–5:00 p.m.: General deliberations and inquiry by the NWC BOA Subcommittee into NWC programs and mission priorities; re-accreditation review; administration; military construction; leader development continuum; defense planning guidance efforts; and any other matters relating to the operations of the NWC as the board considers pertinent.

3. October 20, 2016, 9:00 a.m.–12:00 p.m.: The NPS and NWC Subcommittees will provide out briefs from their meetings to the NPS/NWC BOA Committee after which the Committee will discuss topics raised during the subcommittee sessions. Individuals without a DoD Government Common Access Card require an escort at the meeting location. For access, information, or to send written statements for consideration at the committee meeting contact Ms. Jaye Panza, Naval Postgraduate School, 1 University Circle, Monterey, CA 93943–5001 or by fax 831–656–2789 by October 12, 2016.

Dated: September 20, 2016.

C. Pan,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 2016–23095 Filed 9–23–16; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy. U.S. Patent Number 6,664,915 entitled "Identification Friend or Foe System Including Short Range UV Shield" issued on December 16, 2003; U.S. Patent Number 7,661,271 entitled "Integrated Electric Gas Turbine" issued on February 16, 2010; U.S. Patent Number 6,600,694 entitled "Digital Signal Processor Based Torpedo Counter-measure" issued on July 29, 2003; U.S. Patent Number 6,820,025 entitled " Method and Apparatus for Motion Tracking of an Articulated Rigid Body" issued on November 16, 2004; U.S. Patent Number 6,717,525 entitled "Tactical Vectoring Equipment (TVE)" issued on April 6, 2004; U.S. Patent Number 6,624,780 entitled "False Target Radar Image Generator for Countering wideband and Imaging Radars" issued on September 11, 2003; U.S. Patent Number 7,725,595 entitled "Embedded Communications System and Method" issued on May 25, 2010; U.S. Patent Number 8,443,101 entitled "Method for Identifying and Blocking Embedded Communications" issued on May 14, 2013; U.S. Patent Number 7,675,198 entitled "Inductive Pulse Forming Network for High-current, High-power Applications" issued on March 9, 2010; U.S. Patent Number 8,018,096 entitled "Inductive Pulse Forming Network for High-current, High-power Applications" issued September 13, 2011; U.S. Patent Number 7,074,697 entitled "Doping-assisted Defect Control in Compound Semiconductors" issued on July 11, 2006; U.S. Patent Number 7,089,148 entitled "Method and Apparatus for Motion Tracking of an Articulated Rigid Body" issued August 8, 2006; U.S. Patent Number 7,627,003 entitled "Automatic Clock Synchronization and Distribution Circuit for Counter Clock Flow Pipelined Systems" issued on December 1, 2009; U.S. Patent Number 8,085,817 entitled "Automatic Clock Synchronization and Distribution Circuit for Counter Clock Flow Pipelined Systems" issued December 27, 2011; U.S. Patent Number 8,019,090 entitled "Active Feedforward Noise Vibration Control System" issued September 13, 2011; U.S. Patent Number 8,064,541 entitled "Hyperphase Shift Keying" issued November 22, 2011; U.S. Patent Number 8,050,849 entitled "Method to Reduce Fuel Consumption by Naval Vessels that Operate in Mixed Propulsion Modes" issued November 1,2011; U.S. Patent Number 8,006,937 entitled "Spacecraft Docking Interface Mechanism" issued October 12, 2010; U.S. Patent Number 7,811,918 entitled "Electric Current Induced Liquid Metal Flow and Metallic Conformal Coating of Conductive Templates" issued on October 12, 2010; U.S. Patent Number 8,467,548 entitled "Miniature Directional Sound Sensor Using Micro-Electro- Mechanical-System (MEMS)" issued on June 8, 2013; U.S. Patent Number 8,579,535 entitled "Micro-coupling Active Release Mechanism" issued on November 12, 2013; U.S. Patent Number 9,003,627 entitled "Micro-coupling Active Release Mechanism" issued on April 14, 2015; U.S. Patent Number 8,654,672 entitled "Method for Optimal Transmitter

Placement in Wireless Mesh Networks'' issued on February 18, 2014; U.S. Patent Number 8,473,826 entitled ''Hybrid Soft Decision Hard Decision Reed-Solomon Decoding'' issued June 25, 2013; U.S. Patent Number 8,433,959 entitled ''Method for Determining Hard Drive Contents Through Statistical Drive Sampling'' issued on April 30, 2013; U.S. Patent Number 8,446,096 entitled ''Terahertz (THz) Reverse Micromagnetron'' issued on May 21, 2013; U.S. Patent Number 8,624,497 entitled ''Terahertz (THz) Reverse Micromagnetron'' issued on January 7, 2014; U.S. Patent Number 8,724,598 entitled ''Method for Energy-efficient, Traffic-adaptive, Flow-specific Medium Access For Wireless Networks'' issued on May 13, 2014; U.S. Patent Number 8,269,658 entitled ''Photonic Analog-to-Digital Conversion Using the Robust Symmetrical Number System'' issued on September 18, 2012; U.S. Patent Number 9,194,379 entitled ''Field Ionization Based Electrical Space Ion Thruster Using A Permeable Substrate'' issued on November 24, 2015; U.S. Patent Number 8,800,930 entitled ''Aerial Delivery System with High Accuracy Touchdown'' issued on August 12, 2014; U.S. Patent Number 8,730,098 entitled ''Method for Radar Detection of Persons Wearing Wires'' issued on May 20, 2014; U.S. Patent Number 8,525,393 entitled ''Bimaterial Microelectromechanical System (MEMS) Solar Power Generator'' issued on September 3, 2013; U.S. Patent Number 8,526,746 entitled ''Near Lossless Data Compression Method Using Nonuniform Sampling'' issued on September 3, 2013; U.S. Patent Number 8,489,256 entitled ''Automatic Parafoil Turn Calculation Method and Apparatus'' issued on July 16, 2013; U.S. Patent Number 8,437,891 entitled ''Method And Apparatus for Parafoil Guidance That Accounts For Ground Winds'' issued on May 7, 2013; U.S. Patent Number 8,818,581 entitled ''Parafoil Electronic Control Unit Having Wireless Connectivity'' issued on August 26, 2014; U.S. Patent Number 9,331,773 entitled ''Instantaneous Wireless Network Established By Simultaneously Descending Parafoils'' issued on May 3, 2016; U.S. Patent Number 8,483,891 entitled ''Automatically Guided Parafoil Directed to Land on a Moving Target'' issued on July 9, 2013; U.S. Patent Number 8,693,365 entitled ''Method and Apparatus for State-Based Channel Selection Method in Multi-Channel Wireless Communications Networks'' issued on April 8, 2014; U.S. Patent Number 8,810,121 entitled ''Method and Device to Produce Hot, Dense, Long-lived Plasmas'' issued on August 19, 2014; U.S. Patent Number 8,746,120 entitled ''Boosted Electromagnetic Device and Method to Accelerate Solid Metal Slugs to High Speeds'' issued on June 10, 2014; U.S. Patent Number 8,878,742 entitled ''Dipole with an Unbalanced Microstrip Feed'' issued on November 4, 2014; U.S. Patent Number 9,038,958 entitled ''Method And Apparatus For Contingency Guidance Of A CMG-Actuated Spacecraft'' issued on May 26, 2015; U.S. Patent Number 8,880,246 entitled ''Method and Apparatus for Determining Spacecraft Maneuvers'' issued on November 4, 2014; U.S. Patent Number 9,248,501 entitled ''Method for Additive Manufacturing Using pH and Potential Controlled Powder Solidification'' issued on February 2, 2016; U.S. Patent Number 9,234,732 entitled ''Explosives Storage System'' issued on January 12, 2016; U.S. Patent Number 9,417,044 entitled ''Explosives Storage System'' issued on August 16, 2016; U.S. Patent Number 9,419,920 entitled ''Gateway Router and Method for Application-Aware Automatic Network Selection'' issued on August 16, 2016; U.S. Patent Number 9,321,529 entitled ''Hybrid Mobile Buoy for Persistent Surface and Underwater Exploration'' issued on April 26, 2016; U.S. Patent Number 9,418,080 entitled ''Method and System for Mobile Structured Collection of Data and Images'' issued on August 16, 2016.

U.S. Patent Application Number 14/625,869 filed on February 19, 2015, entitled ''Navigation System and Method Using an Adaptive-Gain Complementary Filter Device''; U.S. Patent Application Number 14/671,143 filed on March 27, 2015, entitled ''Landing Signal Officer (LSO) Information Management and Trend Analysis (IMTA) Tool''; U.S. Patent Application Number 13/662,786 filed on October 29, 2012, entitled ''Electromagnetic Device and Method to Accelerate Solid Metal Slugs to High Speeds''; U.S. Patent Application Number 14/978,769 filed on December 22, 2015, entitled ''Bi-Material Terahertz Sensor and Terahertz Emitter Using Metamaterial Structures''; U.S. Patent Application Number 13/901,308 filed on May 23, 2013, entitled ''Apparatus and Method for Improvised Explosive Device (IED) Network Analysis''; U.S. Patent Application Number 15/188,505 filed on June 21, 2016, entitled ''Method and Apparatus for Guidance and Control of Uncertain Dynamical Systems''; U.S. Patent Application Number 14/853,330 filed on September 14, 2015, entitled ''Method and System for Determining Shortest Oceanic Routes''; U.S. Patent Application Number 14/247,657 filed on April 8, 2014, entitled ''A Method for Conducting Architecture Model-based Interoperability Assessment''; U.S. Patent Application Number 15/073,831 filed on March 18, 2016, entitled ''Multirotor Mobile Buoy for Persistent Surface and Underwater Exploration''; U.S. Patent Application Number 14/338,222 filed on July 22, 2014, entitled ''Method and Apparatus for Passive Geolocation of a 4G WIMAX Mobile Station Using a Single Base Station''; U.S. Patent Application Number 14/316,639 filed on June 26, 2014, entitled ''Method and Apparatus for Singularity Avoidance for Control Moment Gyroscope (CMG) Systems Without Using Null Motion''; U.S. Patent Application Number 14/459,662 filed on August 14, 2014, entitled ''Apparatus and Method for Full Planform Deployment at High Altitude''; U.S. Patent Application Number 14/480,220 filed on September 8, 2014, entitled ''Solid-state Spark Chamber for Detection of Radiation''; U.S. Patent Application Number 14/555,798 filed on November 28, 2014, entitled ''Method for Computer Vision Analysis of Cannon-launched Artillery Video''; U.S. Patent Application Number 14/945,781 filed on November 19, 2015, entitled ''Method and Apparatus for Computer Vision Analysis of Cannon-launched Artillery Video''; U.S. Patent Application Number 14/699,051 filed on April 29, 2015, entitled ''Unscented Control for Uncertain Dynamical Systems''; U.S. Patent Application Number 14/833,728 filed on August 24, 2015, entitled ''Method and Apparatus for Rapid Acoustic Analysis''; U.S. Patent Application Number 14/810,026 filed on July 27, 2015, entitled ''Method and Apparatus for Detection and Hazardous Environmental Conditions and Initiation of Alarm Devices''; U.S. Patent Application Number 14/883,384 filed on October 14, 2015, entitled ''Wireless Signal Localization and Collection from an Airborne Symmetric Line Array Network''; U.S. Patent Application Number 14/852,734 filed on September 14, 2015, entitled ''Network Monitoring Method Using Phantom Nodes''; U.S. Patent Application Number 14/851,404 filed on September 11, 2015, entitled ''Method and Apparatus for Hybrid Time Synchronization Based on Broadcast Sequencing for Wireless Ad Hoc Networks''; U.S. Patent Application Number 14/919,346 filed on October 21, 2015, entitled ''Method and Apparatus for Robust Symmetrical Number System

(RSNS) Photonic Direction Finding (DF) System''; U.S. Patent Application Number 14/624,321 filed on February 17, 2015, entitled ''Super Dielectric Materials''; U.S. Patent Application Number 14/665,865 filed on March 23, 2015, entitled ''Method for Producing A Coating''; U.S. Patent Application Number 14/939,032 filed on November 12, 2015, entitled ''Method and Apparatus for Computer Vision Analysis of Spin Rate of Marked Projectiles''; U.S. Patent Application Number 14/979,836 filed on December 28, 2015, entitled ''Method for Interference-Robust Transmitter Placement in Wireless Mesh Networks''; U.S. Patent Application Number 14/850,410 filed on September 10, 2015, entitled ''Capacitor with Ionic-solution-infused, Porous, Electrically Non-conductive Material''; U.S. Patent Application Number 15/208,784 filed on July 13, 2016, entitled ''Unscented Optimization and Control Allocation''; U.S. Patent Application Number 15/225,174 filed on August 1, 2016, entitled ''Device and Method for Cellular Synchronization Assisted Location Estimation''; U.S. Patent Application Number 15/082,225 filed on March 28, 2016, entitled ''Automated Multi-plane Propulsion System''; U.S. Patent Application Number 15/131,733 filed on April 18, 2016, entitled ''Multiple Unmanned Aerial Vehicle Launcher System''; U.S. Patent Application Number 15/137,090 filed on April 25, 2016, entitled ''Device and Method for Applying Internal Pressure to a Hollow Cylinder''; U.S. Patent Application Number 15/137,285 filed on April 25, 2016, entitled ''Life Preserver Location System''; U.S. Patent Application Number 62/293,376 filed on February 10, 2016, entitled ''Method and Apparatus for Satellite Mission Planning''; U.S. Patent Application Number 62/303,186 filed on March 03, 2016, entitled ''Method and Apparatus for Medium Voltage Pulsed Current Supplies Using Wide Bandgap Solid State Devices''; U.S. Patent Application Number 15/147,568 filed on May 05, 2016, entitled ''MEMS Thermal Creep Cantilever''; U.S. Patent Application Number 15/093,047 filed on April 07, 2016, entitled ''Light Activated Rotor''; U.S. Patent Application Number 15/130,189 filed on April 15, 2016, entitled ''Light Activated Generator''; U.S. Patent Application Number 15/207,128 filed on July 11, 2016, entitled ''AlGaAs/GaAs Solar Cell with Back-surface Alternating Contacts (GaAs BAC Solar Cell)''; U.S. Patent Application Number 62/370,066 filed on August 02, 2016, entitled ''Chemical Method to Create Metal Films on Metal and Ceramic Substrates''.

ADDRESSES: Requests for copies of the inventions should be directed to Deborah Buettner, Director, Research and Sponsored Programs Office, NPS Code 41, 699 Dyer Road, Bldg. HA, Room 226, Monterey, CA 93943, telephone 831–656–7893 or email *dbuettne@nps.edu.*

FOR FURTHER INFORMATION CONTACT: Deborah Buettner, Director, Research and Sponsored Programs Office, NPS Code 41, 699 Dyer Road, Bldg. HA, Room 226, Monterey, CA 93943, telephone 831–656–7893. Due to U.S. Postal delays, please fax 831–656–2038, email: *dbuettne@nps.edu* or use courier delivery to expedite response.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: September 20, 2016.

C. Pan,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 2016–23086 Filed 9–23–16; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0072]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Ronald E. McNair Postbaccalaureate Achievement Program Annual Performance Report

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before October 26, 2016.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2016–ICCD–0072. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E–347, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carmen Gordon, 202–453–7311.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Ronald E. McNair Postbaccalaureate Achievement Program Annual Performance Report.

OMB Control Number: 1840–0640.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 158.

Total Estimated Number of Annual Burden Hours: 1,818.

Abstract: Ronald E. McNair Postbaccalaureate Achievement (McNair) Program grantees must submit the Annual Performance Report (APR) annually. The reports are used to evaluate grantees' performance for substantial progress, respond to

Government Performance and Results Act (GPRA) requirements, and to award prior experience points at the end of each project (budget) period. The Department also aggregates the data to provide descriptive information on the projects and to analyze the impact of the McNair Program on the academic progress of participating students.

Dated: September 21, 2016.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–23089 Filed 9–23–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0080]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; IES Research Training Program Surveys

AGENCY: Institute of Education Sciences (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before October 26, 2016.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2016–ICCD–0080. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E–347, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Phill Gagne, 202–245–7139.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: IES Research Training Program Surveys.

OMB Control Number: 1850–0873.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 580.

Total Estimated Number of Annual Burden Hours: 197.

Abstract: The surveys are for participants in the fellowship research training programs and the non-fellowship research training programs funded by Institute of Education Sciences (IES). IES's fellowship programs include predoctoral training under the National Center for Education Research (NCER) and postdoctoral training under NCER and the National Center for Special Education Research (NCSER). These programs provide universities support to provide training in education research and special education research to graduate students (predoctoral program) and postdoctoral fellows. IES also supports non-fellowship research training through its current programs, *e.g.,* NCER's Methods Research Training program and NCER's Undergraduate Pathways program. IES would like to collect satisfaction information from the participants in these programs and other similar training programs funded through NCER or NCSER grant programs. The results of the surveys will be used both to improve the training programs as well as to provide information on the programs to the participants, policymakers, practitioners, and the general public. All information released to the public will be in aggregate so that no one program or training group can be distinguished.

Dated: September 21, 2016.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–23051 Filed 9–23–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meetings.

SUMMARY: This notice announces meetings of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Saturday, October 15, 2016, 11:00 a.m.; and Thursday, October 20, 2016, 6:00 p.m.

ADDRESSES:

West Kentucky Community and Technical College, Emerging Technology Center, 4810 Alben Barkley Drive, Paducah, Kentucky 42001; and

Barkley Centre, 111 Memorial Drive, Paducah, Kentucky 42001.

FOR FURTHER INFORMATION CONTACT: Jennifer Woodard, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6825.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management and related activities.

Tentative Agendas

Saturday, October 15, 2016

- Call to Order, Introductions, Review of Agenda
- Administrative Issues
- Public Comments (15 minutes)

- Adjourn

Thursday, October 20, 2016

- Welcome
- History of DOE
- Overview of Program
- Adjourn

Breaks Taken As Appropriate

Public Participation: The EM SSAB, Paducah, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Jennifer Woodard as soon as possible in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Jennifer Woodard at the telephone number listed above. Requests must be received as soon as possible prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments. The EM SSAB, Paducah, will hear public comments pertaining to its scope (clean-up standards and environmental restoration; waste management and disposition; stabilization and disposition of non-stockpile nuclear materials; excess facilities; future land use and long-term stewardship; risk assessment and management; and clean-up science and technology activities). Comments outside of the scope may be submitted via written statement as directed above.

Minutes: Minutes will be available by writing or calling Jennifer Woodard at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.pgdpcab.energy.gov/2016_meetings.htm.*

Issued at Washington, DC, on September 21, 2016.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2016–23098 Filed 9–23–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–428]

Application to Export Electric Energy; BioUrja Power, LLC

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: BioUrja Power, LLC (Applicant or BioUrja) has applied for authority to transmit electric energy from the United States to Mexico pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before October 26, 2016.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On September 8, 2016, DOE received an application from BioUrja for authority to transmit electric energy from the United States to Mexico as a power marketer for a five-year term using existing international transmission facilities.

In its application, BioUrja states that it does not own or control any electric generation or transmission facilities, and it does not have a franchised service area. The electric energy that BioUrja proposes to export to Mexico would be surplus energy purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential Permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning BioUrja's application to export electric energy to Mexico should be clearly marked with OE Docket No. EA–428. An additional copy is to be provided to both Raghu Reddy and Robert Cody Moore, BioUrja Trading, LLC, 1080 Eldridge Parkway, Suite 1175, Houston, TX 77077.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Issued in Washington, DC, on September 20, 2016.

Christopher Lawrence,

Electricity Policy Analyst, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2016–23200 Filed 9–23–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Proposed Agency Information Collection

AGENCY: Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy.

ACTION: Notice and Request for OMB Review and Comment.

SUMMARY: The Department of Energy (DOE) has submitted to the Office of Management and Budget (OMB) for clearance, a proposal for collection of information under the provisions of the

Paperwork Reduction Act of 1995. The proposed collection will collect data from industry members in order to identify new and improved research capabilities and tools that would be valuable to the solar industry and opportunities for, and barriers to, national laboratory and industry collaboration on technology development and transfer in those high-value areas.

DATES: Comments regarding this collection must be received on or before October 26, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the DOE Desk Officer at OMB of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4718.

ADDRESSES: Written comments should be sent to the DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17^{111} Street NW., Washington, DC 20503.

And to

Linh Truong, National Renewable Energy Laboratory, Attn: Recipient's Name Mail Stop: RSF034, 15013 Denver West Parkway, Golden, CO 80401, or by fax at 303–630–2108, or by email at *linh.truong@nrel.gov*.

FOR FURTHER INFORMATION CONTACT: Craig Turchi, National Renewable Energy Laboratories, 303.384.7565, *Craig.Turchi@nrel.gov*.

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) OMB No. "New"; (2) Information Collection Request Title: Concentrating Solar Power Solar Advisor Model (SAM) Industry Survey; (3) Type of Request: New collection; (4) Purpose: In an effort to improve the efficiency of Concentrating Solar Power (CSP) plants, this survey is necessary to collect data for the Department of Energy and the national labs from industry members in order to assess how the industry is using the SAM tool and its accuracy; (5) Annual Estimated Number of Respondents: 100; (6) Annual Estimated Number of Total Responses: 100; (7) Annual Estimated Number of Burden Hours: 25 Hours; (8) Annual Estimated Reporting and Recordkeeping Cost Burden: $45,000.

Statutory Authority: Energy Policy Act of 2005, 42 U.S.C. 16161.

Issued in Washington, DC, on September 16, 2016.

Elaine Ulrich,

Program Manager, Solar Energy Technologies Office.

[FR Doc. 2016–23101 Filed 9–23–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–2601–000]

Summit Farms Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Summit Farms Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 11, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 19, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–23023 Filed 9–23–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Docket No. ER16–2602–000

4C Aquisition, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of 4C Aquisition, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 11, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 19, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–23024 Filed 9–23–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–184–000.
Applicants: WGP Acquisition, LLC, Lea Power Partners, LLC, Waterside Power, LLC, Badger Creek Limited, Chalk Cliff Limited, Double C Generation Limited Partnership, High Sierra Limited, Kern Front Limited, McKittrick Limited, Bear Mountain Limited, Live Oak Limited.
Description: Joint 203 Application for WPG Acquisition, LLC, *et al.*
Filed Date: 9/19/16.
Accession Number: 20160919–5193.
Comments Due: 5 p.m. ET 10/11/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2759–005; ER10–2732–011; ER10–2733–011; ER10–2734–011; ER10–2736–011; ER10–2737–011; ER10–2741–011; ER10–2749–011; ER10–2752–011; ER12–2492–007; ER12–2493–007; ER12–2494–007; ER12–2495–007; ER12–2496–007; ER14–264–002; ER10–2631–005; ER10–1437–004; ER13–815–003.
Applicants: Bridgeport Energy LLC, Emera Energy Services Inc., Emera Energy U.S. Subsidiary No. 1, Inc., Emera Energy U.S. Subsidiary No. 2, Inc., Emera Energy Services Subsidiary No. 1 LLC, Emera Energy Services Subsidiary No. 2 LLC, Emera Energy Services Subsidiary No. 3 LLC, Emera Energy Services Subsidiary No. 4 LLC, Emera Energy Services Subsidiary No. 5 LLC, Emera Energy Services Subsidiary No. 6 LLC, Emera Energy Services Subsidiary No. 7 LLC, Emera Energy Services Subsidiary No. 8 LLC, Emera Energy Services Subsidiary No. 9 LLC, Emera Energy Services Subsidiary No. 10 LLC, Emera Maine, Rumford Power Inc., Tampa Electric Company, Tiverton Power LLC.
Description: Supplement to August 1, 2016 Notice of Change in Status of the Emera Entities, *et al.*
Filed Date: 8/17/16.
Accession Number: 20160817–5262.
Comments Due: 5 p.m. ET 9/30/16.

Docket Numbers: ER16–120–003.
Applicants: New York Independent System Operator, Inc.
Description: Compliance filing: NYISO compliance filing RMR tariff revision to be effective 10/20/2015.
Filed Date: 9/20/16.
Accession Number: 20160920–5002.
Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2613–000.
Applicants: Antelope Big Sky Ranch LLC.
Description: § 205(d) Rate Filing: Antelope Big Sky Ranch LLC Amended SFA to be effective 9/20/2016.
Filed Date: 9/19/16.
Accession Number: 20160919–5141.
Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2614–000.
Applicants: Antelope DSR 1, LLC.
Description: § 205(d) Rate Filing: Antelope DSR 1, LLC Amended SFA to be effective 9/20/2016.
Filed Date: 9/19/16.
Accession Number: 20160919–5142.
Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2615–000.
Applicants: Antelope DSR 2, LLC.
Description: § 205(d) Rate Filing: Antelope DSR 2, LLC Amended SFA to be effective 9/20/2016.
Filed Date: 9/19/16.
Accession Number: 20160919–5143.
Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2616–000.
Applicants: Antelope DSR 3, LLC.
Description: § 205(d) Rate Filing: Antelope DSR 3, LLC Amended SFA to be effective 9/20/2016.
Filed Date: 9/19/16.
Accession Number: 20160919–5144.
Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2617–000.
Applicants: Bayshore Solar A, LLC.
Description: Baseline eTariff Filing: Bayshore Solar A, LLC SFA to be effective 9/20/2016.
Filed Date: 9/19/16.
Accession Number: 20160919–5145.
Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2618–000.
Applicants: Bayshore Solar B, LLC.
Description: Baseline eTariff Filing: Bayshore Solar B, LLC SFA to be effective 9/20/2016.
Filed Date: 9/19/16.
Accession Number: 20160919–5146.
Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2619–000.
Applicants: Bayshore Solar C, LLC.
Description: Baseline eTariff Filing: Bayshore Solar C, LLC SFA to be effective 9/20/2016.
Filed Date: 9/19/16.
Accession Number: 20160919–5147.
Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2620–000.
Applicants: Elevation Solar C LLC.
Description: § 205(d) Rate Filing: Elevation Solar C LLC Amended SFA to be effective 9/20/2016.
Filed Date: 9/19/16.
Accession Number: 20160919–5148.
Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2621–000.
Applicants: Solverde 1, LLC.
Description: § 205(d) Rate Filing: Solverde 1, LLC Amended SFA to be effective 9/20/2016.
Filed Date: 9/19/16.
Accession Number: 20160919–5149.
Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2622–000.
Applicants: Western Antelope Blue Sky Ranch B LLC.
Description: § 205(d) Rate Filing: Western Antelope Blue Sky Ranch B LLC Amended SFA to be effective 9/20/2016.
Filed Date: 9/19/16.
Accession Number: 20160919–5150.
Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2623–000.
Applicants: BTI Interconnection, LLC.
Description: Baseline eTariff Filing: Filing of Shared Facilities Agreement to be effective 9/20/2016.
Filed Date: 9/20/16.
Accession Number: 20160920–5000.
Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2624–000.
Applicants: FPL Energy Wyman LLC.
Description: Baseline eTariff Filing: FPL Energy Wyman LLC and FPL Energy Wyman IV LLC Shared Facilities Agreement to be effective 10/1/2016.
Filed Date: 9/20/16.
Accession Number: 20160920–5054.
Comments Due: 5 p.m. ET 10/11/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 20, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–23159 Filed 9–23–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP16–1239–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Passport to DART Conversion Filing to be effective 12/31/9998.
Filed Date: 9/20/16.
Accession Number: 20160920–5009.
Comments Due: 5 p.m. ET 10/3/16.

Docket Numbers: RP16–1240–000.
Applicants: Mojave Pipeline Company, L.L.C.
Description: § 4(d) Rate Filing: Passport to DART Conversion Filing to be effective 12/31/9998.
Filed Date: 9/20/16.
Accession Number: 20160920–5010.
Comments Due: 5 p.m. ET 10/3/16.

Docket Numbers: RP16–1241–000.
Applicants: Dominion Transmission, Inc.
Description: Compliance filing DTI—September 20, 2016 Service Agreement Termination Notice.
Filed Date: 9/20/16.
Accession Number: 20160920–5030.
Comments Due: 5 p.m. ET 10/3/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 20, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–23162 Filed 9–23–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG16–153–000.
Applicants: Summit Farms Solar, LLC.
Description: Self-Certification of Exempt Wholesale Generator Status of Summit Farms Solar, LLC.
Filed Date: 9/16/16.
Accession Number: 20160916–5170.
Comments Due: 5 p.m. ET 10/7/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2237–007; ER10–2238–008; ER10–2239–008; ER12–896–004.
Applicants: Indigo Generation LLC, Larkspur Energy LLC, Wildflower Energy LP, Mariposa Energy, LLC.
Description: Supplement to June 2, 2016 Triennial Market Power Analysis for the Southwest Region of the DGC Southwest Sellers.
Filed Date: 9/1/16.
Accession Number: 20160901–5139.
Comments Due: 5 p.m. ET 9/22/16.

Docket Numbers: ER14–1656–009.
Applicants: CSOLAR IV West, LLC.
Description: Supplement to Updated Market Power Analysis of CSOLAR IV WEST, LLC.
Filed Date: 9/14/16.
Accession Number: 20160914–5073.
Comments Due: 5 p.m. ET 10/5/16.

Docket Numbers: ER14–2244–001.
Applicants: La Paloma Generating Company, LLC.
Description: Supplement to June 30, 2016 La Paloma Generating Company, LLC Triennial Updated Market Power Analysis for the Southwest Region.
Filed Date: 8/31/16.
Accession Number: 20160831–5399.
Comments Due: 5 p.m. ET 9/21/16.

Docket Numbers: ER16–2602–000.
Applicants: 4C Acquisition, LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authority of 4CA to be effective 10/17/2016.
Filed Date: 9/16/16.
Accession Number: 20160916–5145.
Comments Due: 5 p.m. ET 10/7/16.

Docket Numbers: ER16–2603–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: Amend SGIA for Antelope Power Plant Project to be effective 11/17/2016.
Filed Date: 9/16/16.
Accession Number: 20160916–5169.
Comments Due: 5 p.m. ET 10/7/16.

Docket Numbers: ER16–2604–000.
Applicants: Summit Farms Solar, LLC.
Description: Initial rate filing: Rate Schedule No. 1—Shared Facilities Agreement to be effective 11/1/2016.
Filed Date: 9/16/16.
Accession Number: 20160916–5174.
Comments Due: 5 p.m. ET 10/7/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 19, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–23020 Filed 9–23–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–182–000.
Applicants: Llano Estacado Wind, LLC, Northern Iowa Windpower, LLC.
Description: Application for FPA Section 203 authorization of Llano Estacado Wind, LLC, and Northern Iowa Windpower, LLC.
Filed Date: 9/15/16.
Accession Number: 20160915–5135.
Comments Due: 5 p.m. ET 10/6/16.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG16–150–000.
Applicants: Pavant Solar II LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Pavant Solar II LLC.
Filed Date: 9/15/16.
Accession Number: 20160915–5099.
Comments Due: 5 p.m. ET 10/6/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3246–010; ER11–2044–020; ER10–2475–016; ER10–2474–016; ER12–162–017; ER15–2211–008; ER11–3876–020; ER13–520–008; ER13–521–008; ER13–1441–008; ER13–1442–008; ER12–1626–009; ER13–1266–011; ER13–1267–008; ER13–1268–008; ER13–1269–008; ER13–1270–008; ER13–1271–008; ER13–1272–008; ER13–1273–008; ER10–2611–018; ER10–2605–012; ER16–438–003; ER16–1258–001; ER12–922–004.
Applicants: PacifiCorp, MidAmerican Energy Company, Nevada Power Company, Sierra Pacific Power Company, Bishop Hill Energy II LLC, MidAmerican Energy Services, LLC, Cordova Energy Company LLC, Pinyon Pines Wind I, LLC, Pinyon Pines Wind II, LLC, Solar Star California XIX, LLC, Solar Star California XX, LLC, Topaz Solar Farms LLC, CalEnergy, LLC, CE Leathers Company, Del Ranch Company, Elmore Company, Fish Lake Power LLC, Salton Sea Power Generation Company, Salton Sea Power L.L.C., Vulcan/BN Geothermal Power Company, Saranac Power Partners, L.P., Yuma Cogeneration Associates, Marshall Wind Energy LLC, Grande Prairie Wind, LLC, Phillips 66 Company.
Description: Notice of Change in Status of PacifiCorp, et. al.
Filed Date: 9/14/16.
Accession Number: 20160914–5192.
Comments Due: 5 p.m. ET 10/5/16.

Docket Numbers: ER16–2594–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: Amended SGIA Lancaster Little Rock C Project to be effective 11/16/2016.
Filed Date: 9/15/16.
Accession Number: 20160915–5122.
Comments Due: 5 p.m. ET 10/6/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 15, 2016.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2016–23158 Filed 9–23–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	File date	Presenter or requester
Prohibited:		
1. CP15–554–000 CP15–555–000 CP15–554–001	9–6–2016	Eleanor Labiosa.
2. CP15–554–000	9–6–2016	Eleanor Labiosa.
3. CP15–558–000	9–12–2016	John L. Walck.
Exempt:		
1. CP15–558–000	9–6–2016	FERC Staff.[1]
2. ER16–307–000	9–8–2016	U.S. Congress.[2]
3. CP16–10–000	9–8–2016	U.S. Congress.[3]
4. CP16–357–000	9–8–2016	U.S. Department of the Interior.
5. CP15–554–000 CP15–555–000	9–15–2016	FERC Staff.[4]

Dated: September 20, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–23161 Filed 9–23–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–185–000.

Applicants: Hancock Wind, LLC.

Description: Application for Authorization for Disposition of Jurisdictional Facilities and Request for expedited action of Hancock Wind, LLC.

Filed Date: 9/20/16.

Accession Number: 20160920–5111.

Comments Due: 5 p.m. ET 10/11/16.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG16–154–000.

Applicants: Cimarron Bend Assets, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Cimarron Bend Assets, LLC.

Filed Date: 9/20/16.

Accession Number: 20160920–5082.

Comments Due: 5 p.m. ET 10/11/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–2625–000.

Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: Amended CRA No. 2264 between NMPC and Oneida Indian Nation to be effective 8/22/2016.

Filed Date: 9/20/16.

Accession Number: 20160920–5063.

Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2626–000.

Applicants: Southwestern Electric Power Company.

Description: § 205(d) Rate Filing: AECC East Fayetteville Delivery Point Agreement Second Amd & Restated to be effective 8/30/2016.

Filed Date: 9/20/16.

Accession Number: 20160920–5095.

Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2627–000.

Applicants: Southwestern Electric Power Company.

Description: § 205(d) Rate Filing: SWEPCO–NTEC Cass Tap to Roach Delivery Point Agreement to be effective 8/25/2016.

Filed Date: 9/20/16.

Accession Number: 20160920–5099.

Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2628–000.

Applicants: AEP Texas Central Company.

Description: § 205(d) Rate Filing: TCC-Port Comfort Power Interconnection Agreement to be effective 8/25/2016.

Filed Date: 9/20/16.

Accession Number: 20160920–5103.

Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2629–000.

Applicants: AEP Texas North Company.

Description: § 205(d) Rate Filing: TNC–CED Alamo 7 Interconnection Agreement to be effective 8/25/2016.

Filed Date: 9/20/16.

Accession Number: 20160920–5104.

Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2630–000.

Applicants: Midcontinent Independent System Operator, Inc., MidAmerican Energy Company, ITC Midwest LLC.

Description: § 205(d) Rate Filing: 2016–09–20_SA 2954 MidAmerican-ITC Midwest FCA (Parnell Substation) to be effective 9/21/2016.

Filed Date: 9/20/16.

Accession Number: 20160920–5121.

Comments Due: 5 p.m. ET 10/11/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 20, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–23160 Filed 9–23–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–1832–002.

Applicants: Entergy Louisiana, LLC.

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[1] Memo reporting September 6, 2016 email with Linda Christman.

[2] Senators Jack Reed and Sheldon Whitehouse. U.S. House Representatives James R. Langevin and David N. Cicilline.

[3] U.S. House Representatives Bob Goodlatte, H. Morgan Griffith, and Robert Hurt.

[4] Memo providing correspondence with Tribes regarding Atlantic Coast Pipeline and Supply Header Projects.

Description: Tariff Amendment: ELL Nine Mile 6 Supplemental Reactive to be effective 8/1/2016.
Filed Date: 9/19/16.
Accession Number: 20160919–5123.
Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2222–001.
Applicants: Alcoa Power Generating Inc.
Description: Tariff Amendment: Long Sault Division Response to Deficiency Letter to be effective 10/1/2016.
Filed Date: 9/16/16.
Accession Number: 20160916–5168.
Comments Due: 5 p.m. ET 9/28/16.

Docket Numbers: ER16–2223–001.
Applicants: Alcoa Power Generating Inc.
Description: Tariff Amendment: Tapoco Division Response to Deficiency Letter to be effective 10/1/2016.
Filed Date: 9/16/16.
Accession Number: 20160916–5171.
Comments Due: 5 p.m. ET 9/28/16.

Docket Numbers: ER16–2580–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Tariff Amendment: 2016–09–19_Amendment to Bi-Directional EARS to be effective 11/12/2016.
Filed Date: 9/19/16.
Accession Number: 20160919–5112.
Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2605–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: First Revised ISA No. 3559, Queue No. X1–109/AA1–082 to be effective 8/18/2016.
Filed Date: 9/19/16.
Accession Number: 20160919–5043.
Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2606–000.
Applicants: Midcontinent Independent System Operator, Inc., Michigan Electric Transmission Company, LLC, Northern Indiana Public Service Company.
Description: § 205(d) Rate Filing: 2016–09–19_SA 2947 NIPSCO–METC T–TIA to be effective 11/19/2016.
Filed Date: 9/19/16.
Accession Number: 20160919–5044.
Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2607–000.
Applicants: Watson Cogeneration Company.
Description: Compliance filing: Amended Triennial Review Filing to be effective N/A.
Filed Date: 9/19/16.
Accession Number: 20160919–5055.
Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2608–000.
Applicants: Southern California Edison Company.
Description: Tariff Cancellation: Notices of Cancellation to DSA with Mirasol Development to be effective 6/8/2016.
Filed Date: 9/19/16.
Accession Number: 20160919–5081.
Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2609–000.
Applicants: Idaho Power Company.
Description: § 205(d) Rate Filing: Tariff Database Reorganization Filing to be effective 11/21/2016.
Filed Date: 9/19/16.
Accession Number: 20160919–5098.
Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2610–000.
Applicants: Wabash Valley Power Association, Inc.
Description: Initial rate filing: WVPA Reactive Tariff Volume No. 4 to be effective 10/1/2016.
Filed Date: 9/19/16.
Accession Number: 20160919–5104.
Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2611–000.
Applicants: Wabash Valley Power Association, Inc.
Description: Initial rate filing: WVPA Reactive Tariff Volume No. 3 to be effective 10/1/2016.
Filed Date: 9/19/16.
Accession Number: 20160919–5117.
Comments Due: 5 p.m. ET 10/11/16.

Docket Numbers: ER16–2612–000.
Applicants: Summer Solar LLC.
Description: § 205(d) Rate Filing: Shared Facilities Agreement to be effective 9/20/2016.
Filed Date: 9/19/16.
Accession Number: 20160919–5127.
Comments Due: 5 p.m. ET 10/11/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 19, 2016.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2016–23021 Filed 9–23–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR16–72–000.
Applicants: Jefferson Island Storage & Hub, L.L.C.
Description: Tariff filing per 284.123(e)/.224: JISH Revised Statement of Operating Terms and Conditions, Version 4.0.0 to be effective 9/20/2016; Filing Type: 770.
Filed Date: 9/14/2016.
Accession Number: 201609145056.
Comments/Protests Due: 5 p.m. ET 10/5/16.

Docket Number: PR16–73–000.
Applicants: Bridgeline Holdings, L.P.
Description: Tariff filing per 284.123(e) + (g): Bridgeline revised SOC to be effective 10/1/2016; Filing Type: 1280.
Filed Date: 9/16/2016.
*Accession Number:*201609165079 *http://elibrary.ferc.gov/idmws/doc_info.asp?accession_num=20160415-5222.*
Comments Due: 5 p.m. ET 10/7/16.
284.123(g) Protests Due: 5 p.m. ET 11/15/16.

Docket Numbers: RP16–1238–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: Compliance filing Annual Cash-Out Report Period Ending July 31, 2016.
Filed Date: 9/15/16.
Accession Number: 20160915–5168.
Comments Due: 5 p.m. ET 9/27/16.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP16–748–002.
Applicants: Gulf Shore Energy Partners, LP.
Description: Report Filing: Change the Effective Date to be effective N/A.
Filed Date: 9/16/16.
Accession Number: 20160916–5061.
Comments Due: 5 p.m. ET 9/28/16.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated September 19, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–23022 Filed 9–23–16; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2016–0463; FRL–9951–05]

Agency Information Collection Activities; Proposed Renewal of an Existing Collection (EPA ICR No. 2330.03 and OMB Control No. 2070–0179; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: "Pesticide Registration Fees Program" and identified by EPA ICR No. 2330.03 and OMB Control No. 2070–0179, represents the renewal of an existing ICR that is scheduled to expire on June 30, 2017. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before November 25, 2016.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2016–0463, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Cameo Smoot, Field and Affairs Division, (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–5454; email address: *smoot.cameo@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.
2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
3. Enhance the quality, utility, and clarity of the information to be collected.
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: Pesticide Registration Fees Program.

ICR number: EPA ICR No. 2330.03.

OMB control number: OMB Control No. 2070–0179.

ICR status: This ICR is currently scheduled to expire on June 30, 2017. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR covers the paperwork burden hours and costs associated with the information collection activities under the pesticide registration fee programs implemented through the Office of Pesticide Programs, Environmental Protection Agency. Pesticide registrants are required by statute to pay an annual registration maintenance fee for all products registered under Section 3 and Section 24(c) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). In addition, the Pesticide Registration Improvement Act (PRIA) amended FIFRA in 2004 to create a registration service fee system for applications for specific pesticide registration, amended registration, and associated tolerance actions (Section 33). This ICR specifically covers the activities related to the collection of the annual registration maintenance fees, the registration service fees and the burden associated with the submission of requests for fees to be waived.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1,681 hours for the Pesticide Registration Maintenance Fee program and 6,840 hours for the Pesticide Registration Service Fee Waiver program. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/Affected Entities: Entities potentially affected by this ICR are identified by the North American Industrial Classification System (NAICS) codes: 32532—Pesticide and other agricultural chemical manufacturing; 32518—Other Basic Inorganic Chemical Manufacturing;

32519—Other Basic Organic Chemical Manufacturing; and 9641—Regulation of Agricultural Marketing and Commodities.

Estimated total number of potential respondents: 1,471.

Frequency of response: Annually and on occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: Ranges from 1,681 to 6,840 hours depending on the program.

Estimated total annual costs for both programs: $631,791.

III. Are there changes in the estimates from the last approval?

For the Pesticide Registration Maintenance Fee program there is decrease of 312 hours (from 1993 to 1681) hours in the total annual estimated respondent burden compared with that identified in the ICR currently approved by OMB. The reason for the decrease was a reduction in the number responses from 1,744 to 1,471. The total estimated annual respondent burden for the pesticide registration service fee waivers information collection has increased from 5,914 hours in the existing ICR to 6,840 hours for this renewal, due to the increase of respondent's usage of the newer waiver provisions allowed under PRIA. These changes are adjustments.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Authority: 44 U.S.C. 3501 *et seq.*

Dated: September 17, 2016.

James Jones,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2016–23148 Filed 9–23–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9029–2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EISs)

Filed 09/12/2016 Through 09/16/2016

Pursuant to 40 CFR 1506.9.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

EIS No. 20160211, Final, USAF, GU, Divert Activities and Exercises, Commonwealth of the Northern Mariana Islands, *Review Period Ends:* 10/24/2016, *Contact:* Mark Petersen 808–449–1078.

EIS No. 20160212, Draft, FERC, VA, Mountain Valley Project and Equitrans Expansion Project, *Comment Period Ends:* 12/22/2016, *Contact:* Paul Friedman 202–502–8059.

Dated: September 19, 2016.

Dawn Roberts,

Management Analyst, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2016–22990 Filed 9–22–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R09–OAR–2016–0026; FRL–9953–02–Region 9]

Notice of Approval of Clean Air Act Permit for Navajo Generating Station

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Notice of final agency action.

SUMMARY: This notice announces that the Environmental Protection Agency (EPA) issued a final permit decision for a Clean Air Act Minor New Source Review (NSR) Permit in Indian Country to the Salt River Project Agricultural Improvement and Power District (SRP) for the construction of a refined coal treatment system (RCTS) at Navajo Generating Station (NGS). The permit authorizes SRP to construct and operate the RCTS, including ancillary equipment, to treat coal with cement kiln dust and calcium bromide so as to reduce emissions of oxides of nitrogen (NO_X) and mercury.

DATES: The EPA issued a final minor NSR permit decision for the NGS RCTS Project on August 31, 2016. The permit became effective on that date. Pursuant to section 307(b)(1) of the Clean Air Act, 42 U.S.C. 7607(b)(1), judicial review of this final permit decision, to the extent it is available, may be sought by filing a petition for review in the United States Court of Appeals for the Ninth Circuit within 60 days of September 26, 2016.

ADDRESSES: Documents relevant to the above-referenced permit are available for public inspection during normal business hours at the following address: U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901. To arrange for viewing of these documents, call Larry Maurin at (415) 972–3943. Due to building security procedures, at least 48 hours advance notice is required.

FOR FURTHER INFORMATION CONTACT: Larry Maurin, EPA Region 9, (415) 972–3943, *maurin.lawrence@epa.gov.* Anyone who wishes to review the EPA Environmental Appeals Board's (EAB) decision described below or documents in the EAB's electronic docket for its decision can obtain them at *http://www.epa.gov/eab/.* Key portions of the administrative record for this decision (including the final permit, all public comments, the EPA's responses to the public comments, and additional supporting information) are available through a link at Region 9's Web site, *http://www2.epa.gov/caa-permitting/tribal-nsr-permits-region-9,* or at *http://www.regulations.gov* (Docket ID # EPA–R09–OAR–2016–0026).

NOTICE OF FINAL ACTION AND SUPPLEMENTARY INFORMATION: The EPA issued a final permit to SRP authorizing the construction and operation of the RCTS at NGS—Tribal Minor NSR Permit T–0004–NN. The permit for the RCTS was initially issued by the EPA on April 20, 2016. The EPA regulations at 40 CFR 49.159(d) provided an opportunity for administrative review by the EPA's EAB of this initial permit decision.

The EPA's EAB received one petition for review of the permit, and on August 30, 2016, the EAB issued an Order denying the petition for review. *See In re Salt River Agricultural Improvement and Power District—Navajo Generating Station,* NSR Appeal No. 16–01 (EAB, Aug. 30, 2016) (Order Denying Petition for Review). Following the EAB's action, pursuant to 40 CFR 49.159(d)(8), the EPA issued a final permit decision on August 31, 2016. All conditions of the NGS RCTS permit, as initially issued by the EPA on April 20, 2016, are final and effective as of August 31, 2016.

Dated: September 8, 2016.

Elizabeth Adams,

Acting Director, Air Division, Region IX.

[FR Doc. 2016–23170 Filed 9–23–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2016–0446; FRL–9950–87]

Agency Information Collection Activities; Proposed Renewal of an Existing Collection (EPA ICR No. 1632.05 and OMB Control No. 2070–0133); Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: "Standards for Pesticides Containers and Containment" and identified by EPA ICR No. 1632.05 and OMB Control No. 2070–0133, represents the renewal of an existing ICR that is scheduled to expire on June 30, 2017. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before November 25, 2016.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2016–0446, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Ramé Cromwell, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number (703) 308–9068; email address: *cromwell.rame@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.
2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
3. Enhance the quality, utility, and clarity of the information to be collected.
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: Standards for Pesticides Containers and Containment.

ICR number: EPA ICR No. 1632.05.

OMB control number: OMB Control No. 2070–0133.

ICR status: This ICR is currently scheduled to expire on June 30, 2017. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This information collection request covers the information collection activities associated with the container design and residue removal requirements and containment structure requirements. With respect to the container design and residue removal requirements, the information collection activities are associated with the requirement that businesses subject to the container regulations (pesticide registrants) and repackaging regulations (pesticide registrants and refillers) maintain records of test data, cleaning procedures, certain data when a container is refilled, and other supporting information. These records are subject to both call-in by EPA and on-site inspection by EPA and its representatives.

EPA has not established a regular schedule for the collection of these records, and there is no reporting. With respect to the containment structure requirements, the information collection activities are associated with the requirement that businesses subject to the containment structure regulations maintain records of the: (1) Monthly inspection and maintenance of each containment structure and all stationary bulk containers; (2) Duration over which non-stationary bulk containers holding pesticide and not protected by a secondary containment unit remain at the same location; and (3) Construction date of the containment structure.

The businesses subject to the containment structure regulations include agrichemical retailers and refilling establishments, custom blenders and commercial applicators of agricultural pesticides. The records have to be maintained by the owners and operators of such businesses. There is no regular schedule for the collection of either of these records, nor does EPA anticipate a call-in of records at some future date. Instead, the records would be available to inspectors to ensure that businesses are in compliance with containment requirements. These inspections are generally conducted by the states, which enforce FIFRA regulations through cooperative agreements with EPA.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 6 hours per response for container regulations and 4 hours per response for containment regulation. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/affected entities: Entities potentially affected by this ICR are pesticide registrants and businesses who formulate pesticide products or pesticide formulation intermediates (NAICS code 325320), farm supply wholesalers (NAICS code 4229101), swimming pool applicators (NAICS codes 561790, 453998, and 235990), and agricultural (aerial and ground) commercial applicators (NAICS code 115112).

Estimated total number of potential respondents: 23,586.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 169,660 hours.

Estimated total annual costs: $7,296,308. This includes an estimated burden cost of $6,494,488 for container regulations and an estimated cost of $801,820 for containment regulations for maintenance and operational costs.

III. Are there changes in the estimates from the last approval?

There is no changes to the overall estimated burden hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Authority: 44 U.S.C. 3501 *et seq.*

Dated: September 17, 2016.

James Jones,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2016–23151 Filed 9–23–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9953–01–OAR]

Clean Air Act Advisory Committee (CAAAC): Request for Nominations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for nominations to the Clean Air Act Advisory Committee (CAAAC).

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites nominations from a diverse range of qualified candidates to be considered for appointment to its Clean Air Act Advisory Committee (CAAAC). Vacancies are anticipated to be filled by March 2017. Outside sources in addition to this **Federal Register** Notice may also be utilized in the solicitation of nominees.

BACKGROUND: Clean Air Act Advisory Committee provides advice, information and recommendations on policy and technical issues associated with implementation of the Clean Air Act (CAA) as requested by EPA. These issues include the development, implementation, and enforcement of programs required by the Act. The CAAAC will provide advice and recommendations on approaches for new and expanded programs including those using innovative technologies and policy mechanisms to achieve environmental improvements; the potential health, environmental and economic effects of CAA programs on the public, the regulated community, State and local governments, and other Federal agencies; the policy and technical contents of proposed major EPA rulemaking and guidance required by the Act in order to help effectively incorporate appropriate outside advice and information; and the integration of existing policies, regulations, standards, guidelines, and procedures into programs for implementing requirements of the Act.

The programs falling under the purview of the committee include, but are not limited to, those for meeting National Ambient Air Quality Standards, reducing emissions from vehicles and vehicle fuels, reducing air toxic emissions, permitting, carrying out compliance authorities, and CAA-related voluntary activities. Members are appointed by the EPA Administrator for two-year terms with the possibility of reappointment to additional term(s). The CAAAC usually meets approximately 2–3 times annually and the average workload for the members is approximately 5 to 10 hours per month.

Although EPA is unable to offer compensation or an honorarium for CAAAC members, they may receive travel and per diem allowances, according to applicable federal travel regulations. EPA is seeking nominations from academia, industry, non-governmental/environmental organizations, community organizations, state and local government agencies, tribal governments, unions, trade associations, utilities, and lawyers/consultants. EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups.

Evaluation Criteria

The following criteria will be used to evaluate nominees:

- The background and experiences that would help members contribute to the diversity of perspectives on the committee (*e.g.,* geographic, economic, social, cultural, educational, and other considerations)
- Experience serving as an elected official;
- Experience serving as an appointed official for a state, county, city or tribe;
- Experience working on national level or on local government issues;
- Demonstrated experience with air quality policy issues;
- Executive management level experience with membership in broad-based networks;
- Excellent interpersonal, oral and written communication, and consensus-building skills.
- Ability to volunteer time for meeting attendance, participate in teleconference meetings, attend listening sessions with the Administrator or other senior-level officials;
- Ability to work with others with varying perspectives to develop policy recommendations to the Administrator, and prepare reports and advice letters.

Nominations must include a resume and a short biography describing the professional and educational qualifications of the nominee, as well as the nominee's current business/home address, email address, and daytime telephone number. Interested candidates may self-nominate. Please note that EPA's policy is that, unless otherwise prescribed by statute, members generally are appointed to two-year terms. To help the Agency in evaluating the effectiveness of our outreach efforts, please also tell us how you learned of this opportunity.

ADDRESSES: To receive further information about the upcoming nominations, information will be posted at *https://www.epa.gov/caaac.* Submit nominations (which includes a resume and biography) in writing to *caaac@epa.gov* by October 31, 2016 and include in the subject line CAAAC Membership 2017.

Dated: September 12, 2016.

Tamara Saltman,

Designated Federal Officer, Clean Air Act Advisory Committee, Office of Air and Radiation.

[FR Doc. 2016–23165 Filed 9–23–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2012–0209; FRL–9952–43]

Receipt of Information Under the Toxic Substances Control Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing its receipt of information submitted pursuant to an Enforceable Consent Agreement (ECA) issued by EPA under the Toxic Substances Control Act (TSCA). As required by TSCA, this document identifies each chemical substance and/or mixture for which information has been received; the uses or intended uses of such chemical substance and/or mixture; and the information required by the applicable protocols and methodologies for the development of information; and describes the nature of the information received. Each chemical substance and/or mixture related to this announcement is identified in Unit I. under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Kathy Calvo, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8089; email address: *calvo.kathy@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Chemical Substances and/or Mixtures

Information about the following chemical substance and/or mixture is provided in Unit IV.: *Octamethylcyclotetrasiloxane (D4) (CASRN 556–67–2).*

II. Federal Register Publication Requirement

Section 4(d) of TSCA (15 U.S.C. 2603(d)) requires EPA to publish a notice in the **Federal Register** reporting the receipt of information submitted pursuant to ECAs promulgated under TSCA section 4(a) (15 U.S.C. 2603).

III. Docket Information

A docket, identified by the docket identification (ID) number EPA–HQ–OPPT–2013–0677, has been established for this **Federal Register** document that announces the receipt of information. Upon EPA's completion of its quality assurance review, the information received will be added to the docket for the ECA that required the information. Use the docket ID number provided in Unit IV. to access the information in the docket for the related ECA.

The docket for this **Federal Register** document and the docket for each related ECA is available electronically at *http://www.regulations.gov* or in person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

IV. Information Received

This unit contains the information required by TSCA section 4(d) for the information received by EPA.

Octamethylcyclotetrasiloxane (D4) (CASRN 556–67–2).

1. *Chemical Uses:* D4 is used as an intermediate for silicone copolymers and other chemicals. D4 is also used in industrial processing applications as a solvent (which becomes part of a product formulation or mixture), finishing agent, and an adhesive and sealant chemical. It is also used for both consumer and commercial purposes in paints and coatings, and plastic and rubber products and has consumer uses in polishes, sanitation, soaps, detergents, adhesives, and sealants.

2. *Applicable ECA:* Final Enforceable Consent Agreement for Environmental Testing for Octamethylcyclotetrasiloxane (D4); (CASRN 556–67–2).

3. *Information Received:* The following listing describes the nature of the information received. The information will be added to the docket for the applicable ECA and can be found by referencing the docket ID number provided. EPA reviews of information will be added to the same docket upon completion.

Field Sampling of Benthic Organisms. The docket ID number assigned to this information is EPA–HQ–OPPT–2012–0209.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: September 19, 2016.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2016–23172 Filed 9–23–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2016–0460; FRL–9951–12]

Agency Information Collection Activities; Proposed Renewal of an Existing Collection (EPA ICR No. 1249.11 and OMB Control No. 2070–0074); Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: "Requirements for Certified Applicators Using 1080 Collars for Livestock Protection" and identified by EPA ICR No. 1249.11 and OMB Control No. 2070–0074, represents the renewal of an existing ICR that is scheduled to expire on May 31, 2017. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before November 25, 2016.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2016–0460, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Amaris Johnson, Field External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–9542; email address: *johnson.amaris@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.
2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
3. Enhance the quality, utility, and clarity of the information to be collected.
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What Information collection activity or ICR does this action apply to?

Title: Requirements for Certified Applicators Using 1080 Collars for Livestock Protection.

ICR number: EPA ICR No. 1249.11.

OMB control number: OMB Control No. 2070–0074.

ICR status: This ICR is currently scheduled to expire on May 31, 2017. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The information in this ICR enables the agency to obtain information needed to track the use of registered Livestock Protection Collar products which contain solutions of Sodium Monofluoroacetate (Compound 1080). The mandatory record-keeping requirements for these Compound 1080 collars were imposed by an administrative judge in October 1982 and confirmed by the agency in 1983. It ensures the proper use and function of the 1080 collar products, and demonstrates there is no threat of unreasonable harm to non-target animals or people.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 40 hours per response for certified applicators and 77 hours per response for reporting agencies. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/Affected Entities: Entities potentially affected by this ICR are certified pesticide applicators that apply or hold inventory of 1080 collars, and the reporting agencies (state government, NAICS 999200) responsible for implementing and administering a 1080 collar monitoring program.

Estimated total number of potential respondents: 33.

Frequency of response: Annual.

Estimated total average number of responses for each respondent: 1 per year.

Estimated total annual burden hours: 1,431 hours.

Estimated total annual costs: $64,213. This includes an estimated burden cost of $64,213 and an estimated cost of $0 for capital investment or maintenance and operational costs.

III. Are there changes in the estimates from the last approval?

There is a decrease of 513 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease reflects voluntary cancellation of the 1080 Livestock Protection Collar registration formerly held by the South Dakota Department of Agriculture and the removal of estimated burden associated with submission of annual Livestock Protection Collar production reports erroneously included in the previous renewal of this ICR. This resulted in a corresponding decrease in the associated burden. This change is an adjustment.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Authority: 44 U.S.C. 3501 *et seq.*

Dated: September 16, 2016.

James Jones,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2016–23146 Filed 9–23–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0010 and 3060–0084]

Information Collections Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communication Commission (FCC or Commission) invites the general public and other

Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before October 26, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0010.

Title: Ownership Report for Commercial Broadcast Stations, FCC Form 2100, Schedule 323 (formerly FCC Form 323); Section 73.3615, Ownership Reports; Section 74.797, Biennial Ownership Reports.

Form Number: FCC Form 2100, Schedule 323 (formerly FCC Form 323).

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; State, Local, or Tribal Governments.

Number of Respondents: 4,340 respondents; 4,340 responses.

Estimated Time per Response: 1.5 to 2.5 hours.

Frequency of Response: On occasion reporting requirement; biennial reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in 47 U.S.C. 151, 152(a), 154(i), 257, 303(r), 307, 309, and 310.

Total Annual Burden: 9,620 hours.

Total Annual Cost: $10,093,220.

Privacy Impact Assessment: The Commission is drafting a Privacy Impact Assessment (PIA) for the personally identifiable information (PII) that is covered by the system of records notice (SORN), FCC/MB–1, Ownership Report for Commercial Broadcast Stations. Upon completion of the PIA, it will be posted on the FCC's Web site, as required by the Office of Management and Budget (OMB) Memorandum, M–03–22 (September 22, 2003).

Nature and Extent of Confidentiality: FCC Form 2100, Schedule 323 (formerly FCC Form 323) collects two types of information from respondents: PII in the form of names, addresses, job titles and demographic information; and FCC Registration Numbers (FRNs).

The FCC/MB–1 SORN, which was approved on December 21, 2009 (74 FR 59978), covers the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on Form 2100, Schedule 323, as required under the Privacy Act of 1974, as amended (5 U.S.C. 552a). The Commission is drafting a privacy statement to inform applicants (respondents) of the Commission's need to obtain the information and the protections that the Commission has in place to protect the PII.

FRNs are assigned to applicants who complete FCC Form 160 (OMB Control No. 3060–0917). Form 160 currently requires applicants for FRNs to provide their Taxpayer Information Number (TIN) and/or Social Security Number (SSN). The FCC's electronic Commission Registration System (CORES) then provides each registrant with a CORES FRN, which identifies the registrant in his/her subsequent dealings with the FCC. This is done to protect the individual's privacy. The Commission maintains a SORN, FCC/OMD–9, Commission Registration System (CORES), to cover the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on Form 160. Form 160 includes a privacy statement to inform applicants (respondents) of the Commission's need to obtain the information and the protections that the FCC has in place to protect the PII.

The Commission is revising Form 160 to enable applicants to obtain a Restricted Use FRN, which may be used on Form 2100, Schedule 323 to identify an individual reported as an attributable interest holder. The revised Form 160 will require applicants for Restricted Use FRNs to provide an alternative set of identifying information that does not include the individual's full SSN: His/her full name, residential address, date of birth, and only the last four digits of his/her SSN. Restricted Use FRNs may be used in lieu of CORES FRNs only on broadcast ownership reports and only for individuals (not entities) reported as attributable interest holders. The Commission is revising FCC/OMD–9 SORN to cover the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on the revised Form 160.

Needs and Uses: On January 20, 2016, the Commission released a Report and Order, Second Report and Order, and Order on Reconsideration in MB Docket Nos. 07–294, 10–103, and MD Docket No. 10–234 (Second Report and Order). The Second Report and Order refines the collection of data reported on FCC Form 323, Ownership Report for Commercial Broadcast Stations, and FCC Form 323–E, Ownership Report for Noncommercial Broadcast Stations. Specifically, the Second Report and Order implements a Restricted Use FRN (RUFRN) within the Commission's Registration System (CORES) that individuals may use solely for the purpose of broadcast ownership report filings; eliminates the availability of the Special Use FRN (SUFRN) for broadcast station ownership reports, except in very limited circumstances; prescribes revisions to Form 323–E that conform the reporting requirements for noncommercial educational (NCE) broadcast stations more closely to those for commercial stations; and makes a number of significant changes to the Commission's reporting requirements that reduce the filing burdens on broadcasters, streamline the process, and improve data quality. These enhancements will enable the Commission to obtain data reflecting a more useful, accurate, and thorough assessment of minority and female broadcast station ownership in the United States while reducing certain filing burdens.

Licensees of commercial AM, FM, and full power television broadcast stations, as well as licensees of Class A and Low Power Television stations, must file FCC Form 2100, Schedule 323 (formerly FCC Form 323) every two years. Biennial Ownership Reports shall provide information accurate as of October 1 of the year in which the Report is filed. Form 2100, Schedule 323 shall be filed by December 1 in all odd-numbered years.

In addition, Licensees and Permittees of commercial AM, FM, and full power television stations must file Form 2100, Schedule 323 following the consummation of a transfer of control or an assignment of a commercial AM, FM, or full power television station license or construction permit; a Permittee of a new commercial AM, FM, or full power television station must file Form 2100, Schedule 323 within 30 days after the grant of the construction permit; and a Permittee of a new commercial AM, FM, or full power television broadcast station must file Form 2100, Schedule 323 to update the initial report or to certify the continuing accuracy and completeness of the previously filed report on the date that the Permittee applies for a license to cover the construction permit.

In the case of organizational structures that include holding companies or other forms of indirect ownership, a separate Form 2100, Schedule 323 must be filed for each entity in the organizational structure that has an attributable interest in the Licensee or Permittee.

OMB Control Number: 3060–0084.

Title: Ownership Report for Noncommercial Educational Broadcast Stations, FCC Form 2100, Schedule 323–E (formerly FCC Form 323–E); Section 73.3615, Ownership Reports.

Form Number: FCC Form 2100, Schedule 323–E (formerly FCC Form 323–E).

Type of Review: Revision of a currently approved collection.

Respondents: Not-for-profit institutions.

Number of Respondents: 2,636 respondents; 2,636 responses.

Estimated Time per Response: 1 to 1.5 hours.

Frequency of Response: On occasion reporting requirement; biennial reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in 47 U.S.C. 151, 152(a), 154(i), 257, 303(r), 307, 308, 309, and 310.

Total Annual Burden: 3,867 hours.

Total Annual Cost: $2,319,900.

Privacy Impact Assessment: The Commission is drafting a Privacy Impact Assessment (PIA) for the personally identifiable information (PII) that is covered by the system of records notice (SORN), FCC/MB–1, Ownership Report for Commercial Broadcast Stations. The Commission is also revising the FCC/MB–1 SORN to cover the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on FCC Form 2100, Schedule 323–E. The PIA will address the PII that is covered by the FCC/MB–1 SORN, as revised. Upon completion of the PIA, it will be posted on the FCC's Web site, as required by the Office of Management and Budget (OMB) Memorandum, M–03–22 (September 22, 2003).

Nature and Extent of Confidentiality: FCC Form 2100, Schedule 323–E (formerly FCC Form 323–E) collects two types of information from respondents: PII in the form of names, addresses, job titles and demographic information; and FCC Registration Numbers (FRNs).

The Commission is revising the FCC/MB–1 SORN to cover the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on FCC Form 2100, Schedule 323–E, as required under the Privacy Act of 1974, as amended (5 U.S.C. 552a). The Commission is also drafting a privacy statement to inform applicants (respondents) of the Commission's need to obtain the information and the protections that the FCC has in place to protect the PII.

FRNs are assigned to applicants who complete FCC Form 160 (OMB Control No. 3060–0917). Form 160 currently requires applicants for FRNs to provide their Taxpayer Information Number (TIN) and/or Social Security Number (SSN). The FCC's electronic Commission Registration System (CORES) then provides each registrant with a CORES FRN, which identifies the registrant in his/her subsequent dealings with the FCC. This is done to protect the individual's privacy. The Commission maintains a SORN, FCC/OMD–9, Commission Registration System (CORES), to cover the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on FCC Form 160. FCC Form 160 includes a privacy statement to inform applicants (respondents) of the Commission's need to obtain the information and the protections that the FCC has in place to protect the PII.

The Commission is revising Form 160 to enable applicants to obtain a Restricted Use FRN, which may be used on Form 2100, Schedule 323–E to identify an individual reported as an attributable interest holder. The revised Form 160 will require applicants for Restricted Use FRNs to provide an alternative set of identifying information that does not include the individual's full SSN: His/her full name, residential address, date of birth, and only the last four digits of his/her SSN. Restricted Use FRNs may be used in lieu of CORES FRNs only on broadcast ownership reports and only for individuals (not entities) reported as attributable interest holders. The Commission is revising the FCC/OMD–9 SORN to cover the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on the revised Form 160.

Needs and Uses: On January 20, 2016, the Commission released a Report and Order, Second Report and Order, and Order on Reconsideration in MB Docket Nos. 07–294, 10–103, and MD Docket No. 10–234 (323/CORES Order and Reconsideration Order). The 323/CORES Order and Reconsideration Order refines the collection of data reported on FCC Form 323, Ownership Report for Commercial Broadcast Stations, and FCC Form 323–E, Ownership Report for Noncommercial Broadcast Stations. Specifically, the 323/CORES Order and Reconsideration Order implements a Restricted Use FRN (RUFRN) within the Commission's Registration System (CORES) that individuals may use solely for the purpose of broadcast ownership report filings. In light of the Commission's adoption of the RUFRN requirement, the 323/CORES Order and Reconsideration Order eliminates the availability of the Special Use FRN (SUFRN) for broadcast station ownership reports, except in very limited circumstances. The 323/CORES Order and Reconsideration Order also prescribes revisions to Form 323–E that conform the reporting requirements for noncommercial educational broadcast stations more closely to those for commercial stations, including information about the race, gender, and ethnicity of existing, reportable interest holders; the use of a unique identifier; and the biennial filing requirement. In addition, the 323/CORES Order and Reconsideration Order makes a number of significant changes to the Commission's reporting requirements that reduce the filing burdens on broadcasters, streamline the process, and improve data quality. These enhancements will enable the Commission to obtain data reflecting a more useful, accurate, and thorough assessment of minority and female broadcast station ownership in the United States while reducing certain filing burdens.

Licensees of noncommercial educational AM, FM, and television broadcast stations must file FCC Form 2100, Schedule 323–E (formerly FCC Form 323–E) every two years. Pursuant to the new filing procedures adopted in the 323/CORES Order and Reconsideration Order, Form 2100, Schedule 323–E shall be filed by December 1 in all odd-numbered years. Biennial Ownership Reports shall provide information accurate as of October 1 of the year in which the Report is filed.

In addition, Licensees and Permittees of noncommercial educational AM, FM, and television stations must file Form 2100, Schedule 323–E following the consummation of a transfer of control or an assignment of a noncommercial educational AM, FM, or television station license or construction permit; a Permittee of a new noncommercial educational AM, FM, or television station must file Form 2100, Schedule 323–E within 30 days after the grant of the construction permit; and a Permittee of a new noncommercial educational AM, FM, or television station must file Form 2100, Schedule 323–E to update the initial report or to certify the continuing accuracy and completeness of the previously filed report on the date that the Permittee applies for a license to cover the construction permit.

In the case of organizational structures that include holding companies or other forms of indirect ownership, a separate Form 2100, Schedule 323–E must be filed for each entity in the organizational structure that has an attributable interest in the Licensee or Permittee.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2016–23034 Filed 9–23–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 16–1011]

Federal Advisory Committee Act; Disability Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) announces its intent to renew a Federal Advisory Committee, known as the "Disability Advisory Committee" (hereinafter "the Committee"), and to solicit nominations for membership to the next term of this Committee in accordance with the Federal Advisory Committee Act.

DATES: Applications are due as soon as possible, but no later than October 14, 2016.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Elaine Gardner, Designated Federal Officer, Consumer and Governmental Affairs Bureau, (202) 418–0581 (voice or relay), or the ASL Consumer Support Line: 1–844–432–2275 via videophone; email: *Elaine.Gardner@fcc.gov.*

SUPPLEMENTARY INFORMATION: Applications and nominations for membership, including a statement of qualifications as noted below, should be submitted by email to the Federal Communications Commission at *DAC@fcc.gov.* Applications will be acknowledged shortly after receipt via email. No specific application form is required; however applications from consumer organizations, corporations, nonprofits, or other entities (hereinafter "organizational applicants") should include the following information:

- The name of the organizational applicant applying for Committee membership (including whether the organizational applicant has previously served on the Committee);
- The name of the organizational applicant's primary representative, including title, postal mailing address, email address, and telephone number;
- The name of the organizational applicant's alternate representative, if any, including title, postal mailing address, email address, and telephone number;
- A statement noting the constituency represented by the organizational applicant (*e.g.,* persons with disabilities, government, industry, etc.);
- The areas of communications accessibility in which the applicant has an interest, as well as the applicant's knowledge of and expertise in these areas and on other issues to be addressed by the Committee;
- A statement indicating the willingness of the organizational applicant to serve a two-year term; attend at least three plenary Committee meetings per year in Washington DC; serve on at least one working group or subcommittee; and an acknowledgement that the organizational applicant will serve without reimbursement of travel expenses or payment of honoraria, or a statement indicating that partial reimbursement of travel expenses will be sought; and
- A narrative statement detailing the organizational applicant's previous involvement concerning issues relevant to the Committee's work and the applicant's ability and willingness to contribute substantively to the Committee's deliberations.

In the case of an individual applicant the application should include the following:

- The areas of communications accessibility in which the applicant has an interest, as well as the applicant's knowledge of and expertise in these areas and on other issues to be addressed by the Committee;
- A statement that the individual applicant is not a registered lobbyist (as noted above, financial and other additional disclosures may also apply to individual applicants);
- A statement by the individual applicant indicating a willingness to serve on the Committee for a two-year term; a commitment to attend three (3) plenary one-day meetings per year in Washington, DC; a commitment to work on at least one working group or subcommittee; and an acknowledgement that the individual applicant will serve without reimbursement of travel expenses or payment of honoraria, or a statement indicating that partial reimbursement of travel expenses will be sought; and
- A statement as to whether the individual applicant has served on the Committee previously.

All members will have an initial and continuing obligation to disclose any interests in, or connections to, persons or entities that are, or will be, regulated by or have interests before the Commission. Please note this Notice is not intended to be the exclusive method by which the Commission will solicit nominations of and expressions of interest from qualified candidates. All candidates for membership on the Committee will, however, be subject to the same evaluation criteria.

After the applications have been reviewed, the Commission will publish a notice in the **Federal Register** announcing the appointment of the Committee members and the first meeting date of the Committee. All applicants will be notified via email or U.S. mail concerning the disposition of their applications. The Commission anticipates that appointments or re-appointments to the Committee will be commensurate with the renewal date of the Committee (December 30, 2016), and that the first meeting of the renewed Committee will occur in early 2017.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), or call ASL Consumer Support Line at (844) 432–2275 via videophone.

Synopsis

1. On December 29, 2014, the Committee was established for a period of two years from the original charter date. The Commission anticipates that the Committee will hold the final meeting of its current term on December 6, 2016. Thereafter the Committee's charter and all member appointments will terminate on December 29, 2016. The Commission anticipates that the Committee's charter will be renewed for another two-year term. The Committee will operate in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2 (1988). Each meeting of the Committee will be open to the public. A notice of each meeting will be published in the **Federal Register** at least fifteen days in advance of the meeting. Records will be maintained of each meeting and made available for public inspection. More information about the Committee's recommendations and subcommittees may be found at its Web site: *https://www.fcc.gov/general/disability-advisory-committee.*

2. The Committee, which was created under the Federal Advisory Committee Act, provides a vehicle for consumers and other stakeholders to provide feedback and recommendations to the Commission on a wide array of disability issues within the FCC's jurisdiction. In addition to keeping the Commission apprised of current and evolving communications accessibility issues for persons with disabilities, recommendations from the Committee have enabled the FCC to build on its record of ensuring access to communications and video programming for people with disabilities. Some of the issues the Committee has addressed, and will continue to address, include telecommunications relay services, closed captioning, video description, access to emergency information on television and telephone emergency services, device accessibility, IP and other technology transitions, and the National Deaf-Blind Equipment Distribution Program. When renewed, the Committee will also address new accessibility issues that arise.

3. The Commission seeks applications from interested consumer organizations, industry and trade associations, corporations, governmental entities, and individuals that wish to be considered for membership on the Committee. Selections will be made on the basis of factors such as expertise and diversity of viewpoints that are necessary to effectively address the questions before the Committee. The Commission will determine the appropriate Committee size necessary to effectively accomplish the Committee's work. The Commission expects that on an annual basis the Committee will meet in Washington, DC for a minimum of three one-day meetings, all of which will be fully accessible to individuals with disabilities. In addition, working groups or subcommittees will be established as needed to facilitate the Committee's work between meetings of the full Committee. Working group and subcommittee deliberations will be conducted primarily through email and teleconference/videoconference meetings.

4. Members must be willing to commit to a two-year term of service, should be willing and able to attend three one-day meetings per year in Washington, DC, and will also be expected to participate in deliberations of at least one working group or subcommittee. The time commitment to each working group or subcommittee may be substantial. The Commission does not provide payment or honoraria to members, and generally does not reimburse members for travel expenses, although it may have very limited funds to partially reimburse travel expenses of members who demonstrate need.

5. Some applicants possessing expertise or perspectives of interest to the Committee, and who will serve on the Committee in an individual capacity (and not as the representative of a corporation, nonprofit, or other entity), are deemed to be Special Government Employees (SGEs). Such individuals are ineligible to serve if they are federally registered lobbyists. In addition, although all individuals serving on the Committee or its working groups, whether representatives or SGEs, can have personal or financial interests in their individual capacities that could create a conflict with the work of the Disability Advisory Committee if not properly addressed in consultation with the Commission's Office of General Counsel, SGEs specifically are subject to a variety of restrictions under the conflict of interest statutes, 18 U.S.C. 203 *et seq.*, and the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR 2635. While not subject to those ethics restrictions to the same extent as more typical government employees because there are exceptions and waiver provisions available only to SGEs, SGEs do have to file confidential employee financial disclosure forms prior to beginning their service and annually thereafter. SGEs will also be subject to ethics restrictions in section 4(b) of the Communications Act, 47 U.S.C. 154(b), and in the Commission's rules, 47 CFR 19, 5 CFR 3901 and 3902.

Federal Communications Commission.

Karen Peltz Strauss,

Deputy Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. 2016–23049 Filed 9–23–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10370 First Commercial Bank of Tampa Bay, Tampa, Florida

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10370 First Commercial Bank of Tampa Bay, Tampa, Florida (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of First Commercial Bank of Tampa Bay (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective September 1, 2016, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: September 21, 2016.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2016–23061 Filed 9–23–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 21, 2016.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Monona Bankshares, Inc.*, Monona, Wisconsin; to merge with MCB Bankshares, Inc., Middleton, Wisconsin, and thereby indirectly acquire Middleton Community Bank, Middleton, Wisconsin.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Big Mac Bancshares, Inc.*, Hoxie, Kansas; to acquire 100 percent of the voting shares of Financial Shares, Inc., Morland, Kansas, and thereby indirectly acquire Citizens State Bank, Morland, Kansas.

Board of Governors of the Federal Reserve System, September 21, 2016.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2016–23077 Filed 9–23–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice and request for comment.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, the FTC is seeking public comments on its request to OMB for a three-year extension of the current PRA clearance for the information collection requirements contained in the Prescreen Opt-Out Notice Rule ("Prescreen Opt-Out Rule" or "Rule"), which applies to certain motor vehicle dealers, and its shared enforcement with the Consumer Financial Protection Bureau ("CFPB") of the provisions (subpart F) of the CFPB's Regulation V regarding other entities ("CFPB Rule"). This clearance expires on October 31, 2016.

DATES: Comments must be received by October 26, 2016.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Write "Prescreen Opt-Out Notice Rule: FTC File No. P075417" on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/prescreenoptoutpra2* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the collection of information and supporting documentation should be addressed to Karen Jagielski, Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW., CC–8232, Washington, DC 20580, (202) 326–2509.

SUPPLEMENTARY INFORMATION: On May 25, 2016, the FTC sought public comment on the information collection requirements associated with the Prescreen Opt-Out Rule, 16 CFR part 642, the shared enforcement with the CFPB of the provisions (subpart F) of the CFPB's Regulation V, regarding other entities ("CFPB Rule"), and the FTC's associated PRA burden analysis.[1] No comments were received. Pursuant to the OMB regulations, 5 CFR part 1320, that implement the PRA, 44 U.S.C. 3501 *et seq.*, the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for the Rule. All comments should be filed as prescribed herein, and must be received on or before October 26, 2016.

Comments on the information collection requirements subject to review under the PRA should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395–5167.

Burden Statement

The FTC is seeking clearance for its assumed share of the estimated PRA burden regarding the disclosure requirements under the FTC and CFPB Rules. The FTC's assumed share of estimated PRA burden, explained in the May 25, 2016 Notice, is 998 annual hours and $249,500 in annual labor costs, with the added assumption that capital and other non-labor costs should be minimal, at most, since the Rule has been in effect several years, with covered entities now equipped to provide the required notice.

Request for Comment

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before October 26, 2016. Write "Prescreen Opt-Out Notice Rule: FTC File No. P075417" on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm*. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

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[1] 81 FR 33255.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which is . . . privileged or confidential," as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you are required to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c). Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comment online, or to send it to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/prescreenoptoutpra2*, by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov*, you also may file a comment through that Web site.

If you file your comment on paper, write "Prescreen Opt-Out Notice Rule: FTC File No. P075417" on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex J), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before October 26, 2016. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *http://www.ftc.gov/ftc/privacy.htm*.

Comments on the information collection requirements subject to review under the PRA should also be submitted to OMB. If sent by U.S. mail, address comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395–5167.

David C. Shonka,

Acting General Counsel.

[FR Doc. 2016–23065 Filed 9–23–16; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0012]; [Docket 2016–0053; Sequence 36]

Submission for OMB Review; Termination Settlement Proposal Forms—FAR (SF 1435 Through 1440)

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Termination Settlement Proposal Forms—FAR (Standard Forms 1435 through 1440), as prescribed at FAR subpart 49.6, Contract Termination Forms and Formats. A notice was published in the **Federal Register** at 81 FR 44307 on July 7, 2016. No comments were received.

DATES: Submit comments on or before October 26, 2016.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov: http://www.regulations.gov*. Submit comments via the Federal eRulemaking portal by inputting "Information Collection 9000–0012; Termination Settlement Proposal Forms—FAR (Standard Forms 1435 through 1440)". Select the link "Submit a Comment" that corresponds with "Information Collection 9000–0012; Termination Settlement Proposal Forms—FAR (Standard Forms 1435 through 1440)". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000–0012; Termination Settlement Proposal Forms—FAR (Standard Forms 1435 through 1440)" on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0012.

Instructions: Please submit comments only and cite Information Collection 9000–0012, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov*, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov*, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover Sr., Procurement Analyst, Federal Acquisition Policy

Division, at 202–501–1448, or email *curtis.glover@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The termination settlement proposal forms (Standard Forms 1435 through 1440) provide a standardized format for listing essential cost and inventory information needed to support the terminated contractor's negotiation position per FAR subpart 49.6—Contract Termination Forms and Formats. Submission of the information assures that a contractor will be fairly reimbursed upon settlement of the terminated contract.

B. Annual Reporting Burden

Respondents: 4,851.

Responses per Respondent: 1.7.

Total Responses: 8,247.

Hours per Response: 2.4.

Total Burden Hours: 19,793.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

OBTAINING COPIES OF PROPOSALS: Requester may obtain a copy of the proposal from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755.

Please cite OMB Control No. 9000–0012, Termination Settlement Proposal Forms—FAR (SF's 1435 through 1440), in all correspondence.

Dated: September 21, 2016.

Lorin S. Curit,

Director, Federal Acquisition Policy Division, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2016–23123 Filed 9–23–16; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[60Day–16–16BEH; Docket No. ATSDR–2016–0006]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Agency for Toxic Substances and Disease Registry (ATSDR), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on the "ATSDR Communication Activities Survey (ACAS)" which will be used to assess the effectiveness of ATSDR site team members as they engage and inform members of communities in providing effective, clear, and consistent communication and information about protecting communities from environmental hazards.

DATES: Written comments must be received on or before November 25, 2016.

ADDRESSES: You may submit comments, identified by Docket No. ATSDR–2016–0006 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov.*

*Please note: All public comment should be submitted through the Federal eRulemaking portal (*Regulations.gov*) or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

ATSDR Communication Activities Survey (ACAS)—NEW—Agency for Toxic Substances and Disease Registry (ATSDR).

Background and Brief Description

The Agency for Toxic Substances and Disease Registry (ATSDR) serves the public through responsive public health actions to promote healthy and safe environments and to prevent harmful exposures. The agency aims to work effectively with communities in proximity to hazardous waste sites by listening to and understanding their health concerns and seeking their guidance on where, when, and how to take public health actions.

Community members are key participants in the agency's public health assessment process and should be actively involved in decisions that impact their community. Thus, agency's goals for this new information collection request (ICR) titled the "ATSDR Communication Activities Survey (ACAS)" are to ascertain the effectiveness of, and to assess the differences and the consistency of, the delivery of ATSDR activities and respondent perceptions across sites and over time. ATSDR will use the ACAS to: (1) Determine how effectively it's site teams engage community members; (2) discover how well ATSDR provides effective, clear, and consistent communication and information on how to promote healthy and safe environments; (3) understand whether the agency's activities are helping the communities address environmental issues; and (4) improve ATSDR's activities to make a greater impact within the communities served.

Recruitment will occur at communities where ATSDR and state or local agencies have implemented site activities to address environmental issues. For each engaged community, the ACAS will be used to assess a set of effectiveness indicators for ATSDR site-specific activities about the respondents' involvement, knowledge, satisfaction, observations, and opinions about ATSDR's community engagement and educational outreach efforts to inform communities. The indicators will measure ATSDR effectiveness in the following respondent areas: (1) Their involvement with the site activities; (2) how they received, and prefer to receive, ATSDR information; (3) their knowledge and understanding of ATSDR site activities and how to reduce hazardous exposures; (4) their observations and opinions of ATSDR's role in community preparedness; (5) their self-evaluation on their risk of exposure to possible environmental hazards; (6) their demographic profile; (7) their environmental concerns; and (8) any additional feedback.

ATSDR is seeking a three-year clearance for this new ICR. ATSDR anticipates that approximately six to seven sites will be engaged for feedback per year (or about 20 sites over the next three years). Each year, ATSDR will recruit approximately 167 individuals per year, aged 18 and older, to participate in the ACAS where ATSDR is holding public community meetings. Therefore, respondents will include approximately 24 to 28 community members and agency stakeholders per meeting (6 to 7 meetings per year). The community members may include, but are not limited to, the general public, community leaders, faith-based leaders, and business leaders. The agency stakeholders may include, but are not limited to, state and local environmental health department employees, such as environmental health assessors, toxicologists, and departmental officials. The mix of respondents will be approximately 75 percent community members (n = 125 per year) and 25 percent agency stakeholders (n = 42 per year).

Trained ATSDR contractors will have a table set up at the entrance of the community meeting where community meeting attendees will pick up a fact sheet which explains what ATSDR does, and the purpose of ATSDR's site activities and the survey.

At the end of ATSDR public community meetings, there will be an announcement to ask interested attendees to take the survey. All interested attendees will sign in and provide their contact information, their preferred mode for taking the survey (in-person, online or over the phone), and whether they are a community member or an agency stakeholder.

The ACAS will preferably be self-administered right after the public community meetings. If this is not a convenient time for the respondent, the ACAS may be completed online or by phone. We estimate that approximately 80 percent of respondents will choose the self-administered ACAS, 15 percent will choose the online ACAS, and 5 percent will choose the telephone ACAS.

There are no costs to the respondents other than their time. The total annual time burden requested is 96 hours per year.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
Community Members	Sign In Sheet	125	1	3/60	7
	Hardcopy ACAS	100	1	30/60	50
	Online ACAS	19	1	30/60	10
	Telephone ACAS	7	1	30/60	4
Agency Stakeholders	Sign In Sheet	42	1	3/60	3
	Hardcopy ACAS	34	1	30/60	17
	Online ACAS	7	1	30/60	4
	Telephone ACAS	2	1	30/60	1
Total		167			96

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–23094 Filed 9–23–16; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Request for Nominations of Candidates To Serve on the Advisory Council for the Elimination of Tuberculosis (ACET)

The Centers for Disease Control and Prevention (CDC) is soliciting nominations for membership on ACET. The ACET consists of 10 experts in fields associated with public Health, epidemiology, immunology, infectious diseases, pulmonary disease, pediatrics, tuberculosis, microbiology, or preventive health care delivery, who are selected by the Secretary of the United State Department of Health and Human Services (HHS). ACET provides advice and recommendations to the Secretary, HHS; the Assistant Secretary of Health; and the Director, CDC, regarding program policies, strategies, objectives, and priorities; address the development and application of new technologies; provide guidance and review on CDC's Tuberculosis prevention research portfolio and program priorities; and review the extent to which progress has been made toward eliminating tuberculosis.

Nominations are being sought for individuals who have expertise and qualifications necessary to contribute to the accomplishments of the committee's objectives. Nominees will be selected based on expertise in the field of epidemiology, immunology, infectious diseases, pulmonary disease, pediatrics, tuberculosis, microbiology, preventive health care delivery, and experts in public health. Federal employees will not be considered for membership. Members may be invited to serve for four-year terms.

The next cycle of selection of candidates will begin in the Fall of 2016 for selection of potential nominees to replace members whose terms will end on June 30, 2018. Selection of members is based on candidates' qualifications to contribute to the accomplishment of ACET objectives.

The U. S. Department of Health and Human Services policy stipulates that committee membership be balanced in terms of points of view represented, and the committee's function. Appointments shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, gender identity, HIV status, disability, and cultural, religious, or socioeconomic status. Nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government. Current participation on federal workgroups or prior experience serving on a federal advisory committee does not disqualify a candidate; however, HHS policy is to avoid excessive individual service on advisory committees and multiple committee memberships. Committee members are Special Government Employees, requiring the filing of financial disclosure reports at the beginning and annually during their terms. CDC reviews potential candidates for ACET membership each year, and provides a slate of nominees for consideration to the Secretary of HHS for final selection. HHS notifies selected candidates of their appointment near the start of the term in July 1, 2018, or as soon as the HHS selection process is completed. Note that the need for different expertise varies from year to year and a candidate who is not selected in one year may be reconsidered in a subsequent year.

Candidates should submit the following items. The deadline for receipt of materials for the 2017 term is October 31, 2016:

- Current curriculum vitae, including complete contact information (telephone numbers, mailing address, email address).
- At least one letter of recommendation from person(s) not employed by the U.S. Department of Health and Human Services (Candidates may submit letter(s) from current HHS employees if they wish, but at least one letter must be submitted by a person not employed by an HHS agency (*e.g.,* CDC, NIH, FDA, etc.).

The deadline for receipts of all application materials for consideration for term beginning July 1, 2018 is due October 31, 2016 electronically or in writing, and must be postmarked by October 31, 2016.

Regular, Express or Overnight Mail to: Margie Scott-Cseh, Committee Management Specialist, NCHHSTP, CDC, 1600 Clifton Road NE., Mailstop: E07, Atlanta, GA 30329

Electronic submissions may be sent to: zkr7@cdc.gov.

Telephone and facsimile submissions cannot be accepted. Nominations may be submitted by the candidate or by the person/organization recommending the candidate.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the CDC and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2016–23052 Filed 9–23–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–16–16AMV]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Survey of Musculoskeletal Disorders Prevention Tools/Methods: 10-year Follow-Up—New—National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC),

Background and Brief Description

The mission of the National Institute for Occupational Safety and Health (NIOSH) is to promote safety and health at work for all people through research and prevention. Under Public Law 91–596, sections 20 and 22 (Section 20–22, Occupational Safety and Health Act of 1970), NIOSH has the responsibility to conduct research to advance the health and safety of workers. In this capacity, NIOSH proposes to administer a survey of ergonomics professionals as a 10-year follow-up to a survey conducted of U.S. Certified Professional Ergonomists (CPEs) by Dempsey et al. and published in 2005 (A survey of tools and methods used by certified professional ergonomists. *Applied Ergonomics, 36,* 489–503).

The project is planned to extend the original survey in two ways: (1) The sample will be broadened to include international ergonomics practitioners (in Canada, the United Kingdom, New Zealand, and Australia), and, (2) the queried tools and methods have been updated to reflect new and emerging technologies not included in the original survey.

The purpose of the survey will be unchanged—to gather information on the types of basic tools, direct and observational measurement techniques, and software used in the field by ergonomics practitioners to assess workplace risk factors for musculoskeletal disorders and to evaluate workplace interventions.

The motivation for the original 2005 survey was to better understand the types of tools and methods practitioners use, their opinions of these tools, and to potentially gain an understanding of the constraints or preferences that influence this selection. At the time of the 2005 survey there were many tools reported in the literature, but little information on the extent to which these different tools were used by practitioners.

Similarly, there was little published information on users' experiences with these different tools. There has been considerable interest in the findings and the Dempsey et al. (2005) publication has been widely cited. The program anticipates that a follow-up effort will result in even greater interest as changes in the practice of ergonomics and prevention of soft tissue MSDs can be inferred from comparisons between the two surveys time points.

Since publication of the initial survey findings there has been a proliferation of smart phone/smart device-embedded inertial and acceleration sensors and related "apps" for human motion and activity logging. Little is known about the extent to which ergonomics practitioners are using these newer technologies towards assessing workplace physical activity (and now, workplace inactivity and "sedentarism") and other job demands. Thus, the survey will provide a contemporary perspective on the scope of use of assessment tools and methods by these professionals.

In summary, this study will update information collected and published in 2005 on the methods and tools used by practicing ergonomists. NIOSH expects to complete data collection in 2017. The professionals who will be surveyed are being asked to volunteer their time. Only certified ergonomics professionals from five countries with specific certification credentials will be eligible and invited to participate. The certification organizations are shown below with an approximation of eligible respondents:

Board of Certification in Professional Ergonomics (BCPE) *CPE designation*	U.S	853
European CREE—Centre for Registration of European Ergonomists	United Kingdom	43
Australian Register of Certified Professional Ergonomists	Australia	20
New Zealand BCNZE—Board for Certification of New Zealand Ergonomists	New Zealand	15
Canadian College for the Certification of Professional Ergonomists	Canada	241

The program has assumed an optimistic 80% response rate to estimate the number of respondents at 938 in the estimation of annualized burden hours.

This project will involve the collection of non-sensitive data via web-based survey questionnaire methods. Survey data relate only to respondents' professional practice within the OS&H discipline of ergonomics and prevention of musculoskeletal disorders. Nonetheless, safeguards will be taken to insure data confidentiality and the dissociation of personally identifying information (PII) from individual questionnaire responses submitted through the web-based survey service. Participants' web-submitted responses will not contain PII in association with their data. Basic demographic information collected over the web, including years' experience and certification in the ergonomics profession, current occupation, expertise specialization, highest academic degree attained, and field of study are non-sensitive information.

The estimated annual burden is 469 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs)
Individual (Ergonomics Professional)	Survey of Tools and Methods	938	1	0.5

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–23074 Filed 9–23–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–16–1011]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov*. Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Emergency Epidemic Investigation Data Collections (OMB Control Number 0920–1011, Expiration 03–31–2017)—Extension — Division of Scientific Education and Professional Development, Center for Surveillance, Education, and Laboratory Services, Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC previously conducted Emergency Epidemic Investigations (EEIs) under OMB Control Number 0920–0008. In 2013, CDC received OMB approval (OMB Control Number 0920–1011) for a new OMB generic clearance for a three-year period to collect vital information during EEIs in response to urgent outbreaks or events (*i.e.*, natural, biological, chemical, nuclear, radiological) characterized by undetermined agents, undetermined sources, undetermined transmission, or undetermined risk factors. CDC seeks OMB approval for an extension of this generic clearance (OMB control number 0920–1011) for a three-year period.

Supporting effective emergency epidemic investigations is one of the most important ways that CDC protects the health of the public. CDC is frequently called upon to conduct EEIs at the request of local, state, or international health authorities seeking support to respond to urgent outbreaks or urgent public health-related events. In response to external partner requests, CDC provides necessary epidemiologic support to identify the agents, sources, modes of transmission, or risk factors to effectively implement rapid prevention and control measures to protect the public's health. Data collection is a critical component of the epidemiologic support provided by CDC; data are analyzed to determine the agents, sources, modes of transmission, or risk factors so that effective prevention and control measures can be implemented. During an unanticipated outbreak or event, immediate action by CDC is necessary to minimize or prevent public harm. The legal justification for EEIs are found in the Public Health Service Act (42 U.S.C. Sec. 301[241](a).

Successful investigations are dependent on rapid and flexible data collection that evolves during the investigation and is customized to the unique circumstances of each outbreak or event. Data collection elements will be those necessary to identify the agents, sources, mode of transmission, or risk factors. Examples of potential data collection methods include telephone or face-to-face interview; email, web or other type of electronic questionnaire; paper-and-pencil questionnaire; focus groups; medical record review; laboratory record review; collection of clinical samples; and environmental assessment. Respondents will vary depending on the nature of the outbreak or event; examples of potential respondents include health care professionals, patients, laboratorians, and the general public. Participation in EEIs is voluntary and there are no anticipated costs to respondents other than their time. CDC will use the information gathered during EEIs to rapidly identify and effectively implement measures to minimize or prevent public harm.

CDC projects 60 EEIs in response to outbreaks or events characterized by undetermined agents, undetermined sources, undetermined transmission, or undetermined risk factors annually. The projected average number of respondents is 200 per EEI, for a total of 12,000 respondents. CDC estimates the average burden per response is 0.5 hours and each respondent will be asked to respond once. Therefore, the total estimated annual burden hours are 6,000. These estimates are based on the reported burden for EEIs that have been performed during the previous two years.

OMB approval is requested for three years. Participation is based on previous Emergency Epidemic Investigations. There are no costs to respondents.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
Emergency Epidemic Investigation Participants.	Emergency Epidemic Investigation Data Collection Instruments.	12,000	1	30/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–23073 Filed 9–23–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Centers for Disease Control and Prevention (CDC)

Breast and Cervical Cancer Early Detection and Control Advisory Committee (BCCEDCAC): Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the charter for the Breast and Cervical Cancer Early Detection and Control Advisory Committee, Department of Health and Human Services, has been renewed for a 2-year period through September 12, 2018.

For information, contact Ms. Jameka Blackmon, Designated Federal Officer, BCCEDCAC, CDC, 1600 Clifton Road NE., M/S K57, Atlanta, Georgia, 30329, telephone (770) 488–4740; fax (770) 488–3230.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2016–23057 Filed 9–23–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the charter for the Disease, Disability, and Injury Prevention and Control Special Emphasis Panel, Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through September 18, 2018.

For information, contact M. Chris Langub, Ph.D., Designated Federal Officer, Disease, Disability, and Injury Prevention and Control Special Emphasis Panel, Centers for Disease Control and Prevention, Department of Health and Human Services, 1600 Clifton Road NE., Mailstop K48, Atlanta, Georgia 30329, telephone (770) 488–3585 or fax (770) 488–4887.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2016–23054 Filed 9–23–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to PAR 13–129, Occupational Safety and Health Research, NIOSH Member Conflict Review.

Time and Date: 1:00 p.m.–5:00 p.m., EDT, October 20, 2016 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters for Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to "PAR 13–129, NIOSH Member Conflict Review."

Contact Person for More Information: Nina Turner, Ph.D., Scientific Review Officer, NIOSH, CDC, 1095 Willowdale Road, Mailstop G905, Morgantown, West Virginia 26506, Telephone: (304) 285–5976.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2016–23056 Filed 9–23–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting of the aforementioned committee.

Time and Date:

8:00 a.m.–6:00 p.m., EDT, October 19, 2016

8:00 a.m.–3:30 p.m., EDT, October 20, 2016

Place: CDC, Tom Harkin Global Communications Center, 1600 Clifton Road NE., Building 19, Kent "Oz" Nelson Auditorium, Atlanta, Georgia 30329.

Status: Open to the public, limited only by the space available. Time will be available for public comment. The public is welcome to submit written comments in advance of the meeting. Comments should be submitted in writing by email to the contact person listed below. The deadline for receipt is October 11, 2016. All written comments must contain the name, address, and organizational affiliation of the speaker, as well as the topic being addressed. Written comments should not exceed one single-spaced typed page in length and delivered in 3 minutes or less. Please note that the public comment period may end before the time indicated, following the last call for comments. Members of the public who wish to provide public comments should plan to attend the public comment session at the start time listed. Written comments received in advance of the meeting will be included in the official record of the meeting.

The meeting will be webcast live via the World Wide Web; for instructions and more information on ACIP please visit the ACIP Web site: *http://www.cdc.gov/vaccines/acip/index.html.*

Purpose: The committee is charged with advising the Director, CDC, on the appropriate use of immunizing agents. In addition, under 42 U.S.C. §1396s, the committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding the appropriate periodicity, dosage, and contraindications applicable to the vaccines. Further, under provisions of the Affordable Care Act, at section 2713 of the Public Health Service Act, immunization recommendations of the ACIP that have been adopted by the Director of the Centers for Disease Control and Prevention and appear on the CDC immunization schedules must be covered by applicable health plans.

Matters for Discussion: The agenda will include discussions on: Meningococcal vaccines; human papillomavirus vaccines; influenza; hepatitis vaccines; pertussis vaccines; Respiratory Syncytial Virus (RSV); child and adolescent immunization schedule; adult immunization schedule; herpes zoster vaccine; yellow fever vaccine; pneumococcal vaccine and vaccine supply. A recommendation vote is scheduled for Hepatitis B vaccine, pertussis vaccine, human papillomavirus vaccines, meningococcal vaccines, child and adolescent immunization schedule, and adult immunization schedule. A Vaccines for Children (VFC) vote is scheduled for human papillomavirus vaccines, Hepatitis B vaccine and meningococcal vaccines. Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Stephanie Thomas, National Center for Immunization and Respiratory Diseases, CDC, 1600 Clifton Road NE., MS–A27, Atlanta, Georgia 30329, Telephone: (404) 639–8836; Email: *ACIP@CDC.GOV.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2016–23053 Filed 9–23–16; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to Funding Opportunity Announcement (FOA) GH16–007, Operations Research (Implementation Science) for Strengthening Global Health Protection Implementation.

Times and dates: 9:00 a.m.–2:00 p.m., EDT, Panel A, October 18, 2016 (Closed); 9:00 a.m.–2:00 p.m., EDT, Panel B, October 19, 2016 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters for discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to GH16–007 Operations Research (Implementation Science) for Strengthening Global Health Protection Implementation.

Contact person for more information: Hylan Shoob, Scientific Review Officer, Center for Global Health (CGH) Science Office, CGH, CDC, 1600 Clifton Road NE., Mailstop D–69, Atlanta, Georgia 30329, Telephone: (404) 639–4796.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2016–23055 Filed 9–23–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–16–0457]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Aggregate Reports for Tuberculosis Program Evaluation (OMB Control Number 0920–0457)—Reinstatement Without Change of a Previously Approved Collection—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC, NCHHSTP, Division of Tuberculosis Elimination (DTBE) proposes a reinstatement without change of the Aggregate Reports for Tuberculosis Program Evaluation, previously approved under OMB Control Number 0920–0457. This request is for a three-year clearance. There are no revisions to the report forms, data definitions, or reporting instructions.

DTBE is the lead agency for tuberculosis elimination in the United States. To ensure the elimination of tuberculosis in the United States, CDC monitors indicators for key program activities, such as finding tuberculosis infections in recent contacts of cases and in other persons likely to be infected and providing therapy for latent tuberculosis infection.

In 2000, CDC implemented two program evaluation reports for annual submission: Aggregate report of follow-up for contacts of tuberculosis, and Aggregate report of screening and preventive therapy for tuberculosis infection (OMB No. 0920–0457). The respondents for these reports were the 68 state and local tuberculosis control programs receiving federal cooperative agreement funding through DTBE. This group will also respond to this collection of information.

These Aggregate reports emphasize treatment outcomes, high-priority target populations vulnerable to tuberculosis, and programmed electronic report entry, which transitioned to the National Tuberculosis Indicators Project (NTIP), a secure web-based system for program evaluation data, in 2010. No other federal agency collects this type of national tuberculosis data, and the Aggregate report of follow-up for contacts of tuberculosis, and Aggregate report of screening and preventive therapy for tuberculosis infection are the only data source about latent tuberculosis infection for monitoring national progress toward tuberculosis elimination with these activities.

CDC provides ongoing assistance in the preparation and utilization of these reports at the local and state levels of public health jurisdiction. CDC also provides respondents with technical support for NTIP access (Electronic—100%, Use of Electronic Signatures).

The annual burden to respondents is estimated to be 226 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Data clerks and Program Managers (electronic).	Follow-up and Treatment of Contacts to Tuberculosis Cases Form.	100	1	30/60
Program Managers (manual)	Follow-up and Treatment of Contacts to Tuberculosis Cases Form.	18	1	30/60
Data clerks (manual)	Follow-up and Treatment of Contacts to Tuberculosis Cases Form.	18	1	3
Data clerks and Program Managers (electronic).	Targeted Testing and Treatment for Latent Tuberculosis Infection.	100	1	30/60
Program Managers (manual)	Targeted Testing and Treatment for Latent Tuberculosis Infection.	18	1	30/60
Data clerks (manual)	Targeted Testing and Treatment for Latent Tuberculosis Infection.	18	1	3

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–23072 Filed 9–23–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–R–70, CMS–R–72, CMS–R–247, CMS–10062, CMS–10268, CMS–10615 and CMS–10623]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by October 26, 2016.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR* Email: *OIRA_s submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Information Collection Requirements in HSQ–110, Acquisition, Protection and Disclosure of Peer review Organization Information and Supporting Regulations; *Use:* The Peer Review Improvement Act of 1982 authorizes quality improvement organizations (QIOs), formally known as peer review organizations (PROs), to acquire information necessary to fulfill their duties and functions and places limits on disclosure of the information. The QIOs are required to provide notices to the affected parties when disclosing information about them. These requirements serve to protect the rights of the affected parties. The information provided in these notices is used by the patients, practitioners and providers to: Obtain access to the data maintained and collected on them by the QIOs; add additional data or make changes to existing QIO data; and reflect in the QIO's record the reasons for the QIO's disagreeing with an individual's or provider's request for amendment. *Form Number:* CMS–R–70 (OMB control number: 0938–0426); *Frequency:* Reporting—On occasion; *Affected Public:* Business or other for-profits; *Number of Respondents:* 400; *Total Annual Responses:* 21,200; *Total Annual Hours:* 42,400. (For policy questions regarding this collection contact Winsome Higgins at 410–786–1835.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Information Collection Requirements in 42 CFR 478.18, 478.34, 478.36, 478.42, QIO Reconsiderations and Appeals; *Use:* In the event that a beneficiary, provider, physician, or other practitioner does not agree with the initial determination of a Quality Improvement Organization (QIO) or a QIO subcontractor, it is within that party's rights to request reconsideration. The information collection requirements 42 CFR 478.18, 478.34, 478.36, and 478.42, contain procedures for QIOs to use in reconsideration of initial determinations. The information requirements contained in these regulations are on QIOs to provide information to parties requesting the reconsideration. These parties will use the information as guidelines for appeal rights in instances where issues are actively being disputed. *Form Number:* CMS–R–72 (OMB control number: 0938–0443); *Frequency:* Reporting—On occasion; *Affected Public:* Individuals or Households and Business or other for-profit institutions; *Number of Respondents:* 2,590; *Total Annual Responses:* 5,228; *Total Annual Hours:* 2,822. (For policy questions regarding this collection contact Winsome Higgins at 410–786–1835.)

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Expanded Coverage for Diabetes Outpatient Self-Management Training Services and Supporting Regulations; *Use:* According to the National Health and Nutrition Examination Survey (NHANES), as many as 18.7 percent of Americans over age 65 are at risk for developing diabetes. The goals in the management of diabetes are to achieve normal metabolic control and reduce the risk of micro- and macro-vascular complications. Numerous epidemiologic and interventional studies point to the necessity of maintaining good glycemic control to reduce the risk of the complications of diabetes. Despite this knowledge, diabetes remains the leading cause of blindness, lower extremity amputations and kidney disease requiring dialysis. Diabetes and its complications are primary or secondary factors in an estimated 9 percent of hospitalizations (Aubert, RE, et al., Diabetes-related hospitalizations and hospital utilization. In: Diabetes in America. 2nd ed. National Institutes of Health, National Institute of Diabetes and Digestive and Kidney Disease, NIH, Pub. No 95–1468–1995: 553–570). Overall, beneficiaries with diabetes are hospitalized 1.5 times more often than beneficiaries without diabetes. HCFA–3002–F provided for uniform coverage of diabetes outpatient self-management training services. These services include educational and training services furnished to a beneficiary with diabetes by an entity approved to furnish the services. The physician or qualified non-physician practitioner treating the beneficiary's diabetes would certify that these services are needed as part of a comprehensive plan of care. This rule established the quality standards that an entity would be required to meet in order to participate in furnishing diabetes outpatient self-management training services. It set forth payment amounts that have been established in consultation with appropriate diabetes organizations. It implements section 4105 of the Balanced Budget Act of 1997. *Form Number:* CMS–R–247 (OMB control number: 0938–0818); *Frequency:* Recordkeeping and Reporting—Occasionally; *Affected Public:* Business or other for-profit institutions; *Number of Respondents:* 5,327; *Total Annual Responses:* 63,924; *Total Annual Hours:* 197,542. (For policy questions regarding this collection contact Kristin Shifflett at 410–786–4133.)

4. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Collection of Diagnostic Data from Medicare Advantage Organizations for Risk

Adjusted Payments; *Use:* CMS requires hospital inpatient, hospital outpatient and physician diagnostic data from Medicare Advantage (MA) organizations to continue making payment under the risk adjustment methodology. CMS will use the data to make risk adjusted payment under Parts C and D. MA and MA–PD plans will use the data to develop their Part C and D bids. As required by law, CMS also annually publishes the risk adjustment factors for plans and other interested entities in the Advance Notice of Methodological Changes for MA Payment Rates (every February) and the Announcement of Medicare Advantage Payment Rates (every April). Lastly, CMS issues monthly reports to each individual plan that contains the CMS Hierarchical Condition Category (HCC) and RxHCC models' output and the risk scores and reimbursements for each beneficiary that is enrolled in their plan. *Form Number:* CMS–10062 (OMB control number: 0938–0878); *Frequency:* Quarterly; *Affected Public:* Private sector (Business or other for profit and Not-for-profit institutions); *Number of Respondents:* 691; *Total Annual Responses:* 83,000,000; *Total Annual Hours:* 40,650. (For policy questions regarding this collection contact Michael P. Massimini at 410–786–1566.)

5. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Consolidated Renal Operations in a Web Enabled Network (CROWNWeb) Third-party Submission Authorization Form; *Use:* The Consolidated Renal Operations in a Web Enabled Network (CROWNWeb) Third-Party Submission Authorization form (CWTPSA) is to be completed by "Facility Administrators" (administrators of CMS-certified dialysis facilities) if they intend to authorize a third party (a business with which the facility is associated, or an independent vendor) to submit data to us to comply with the recently-revised Conditions for Coverage of dialysis facilities. The CROWNWeb system is the system used as the collection point of data necessary for entitlement of ESRD patients to Medicare benefits and for federal government monitoring and assessing of the quality and types of care provided to renal patients. The information collected through the CWTPSA form will allow us along with our contractors to receive data from authorized parties acting on behalf of CMS-certified dialysis facilities. Since February 2009, we have received 4,160 CWTPSA forms and anticipates that they will continue to receive no more than 400 new CWTPSA forms annually to address the creation of new facilities under the current participating "third party submitters." *Form Number:* CMS–10268 (OMB control number: 0938–1052); *Frequency:* Occasionally; *Affected Public:* Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 400; *Total Annual Responses:* 400; *Total Annual Hours:* 34. (For policy questions regarding this collection contact Victoria Schlining at 410–786–6878.)

6. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Healthy Indiana Program (HIP) 2.0 Beneficiaries Survey, Focus Groups, and Informational Interviews; *Use:* The collected information will be used to make decisions about the renewal of precedent-setting waivers of Medicaid policy that assure important beneficiary protections regarding coverage and access to care; *e.g.,* the State of Indiana's non-emergency medical transportation waiver which will end or will be extended by no later than December 1, 2016. To support CMS decision making, the collection's survey effort would provide more detailed information on the Healthy Indiana Program (HIP) 2.0 demonstration's beneficiary understanding and experiences (current and new enrollees as well as disenrollees/lockouts). Additional information on other key policies under the demonstration, such as the 60-day beneficiary lock-out period, is also included in this information collection request.

This request does not propose any new or revised information collection requirements or burden estimates outside of what is currently approved by OMB. Rather, it seeks to extend the collection's current expiration date of September 30, 2016 (approved under the emergency PRA process on March 21, 2016; see 81 FR 17460 dated March 29, 2106, and 81 FR 26798 dated May 4, 2016). Since the collection has already been subject to the public comment process for collection activities taking place through September 30, 2016, this "Extension of a currently approved collection" will only consider comments for activities taking place from October 1, 2016, through the end of the revised expiration date. The revised expiration date will be made available upon OMB approval at *reginfo.gov. Form Number:* CMS–10615 (OMB control number: 0938–1300); *Frequency:* Once; *Affected Public:* Individuals and households, Private sector (Business or other for-profits and Not-for-profits institutions), and State, Local, or Tribal Governments; *Number of Respondents:* 5,240; *Total Annual Responses:* 5,240; *Total Annual Hours:* 1,442. (For policy questions regarding this collection contact Teresa DeCaro at 202–384–6309.)

7. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Testing Experience and Functional Tools Demonstration: Personal Health Record (PHR) User Survey; *Use:* The PHR user survey is important to the TEFT Program Evaluation and understanding the impact of the TEFT PHR on Medicaid CB–LTSS beneficiaries. The TEFT evaluation team's approach includes monitoring state PHR implementation efforts and fielding a follow-up questionnaire to CB–LTSS program participants that asks about their experiences using the PHR. The evaluation seeks to measure the degree to which the PHR is implemented in an accessible manner for Medicaid beneficiaries of CB–LTSS. The survey also is designed to assess the user experience of the PHR, including access and usability, as well as some measures of user satisfaction and perceived impacts of PHR use.

The information collection request has been revised subsequent to the publication of the 60-day **Federal Register** notice on June 13, 2016 (81 FR 38187). Details can be found in the package's Supporting Statement. While the June 13 Supporting Statement had set out the correct number of burden hours, the 60-day **Federal Register** notice had inadvertently set out 192,113 hours. This should have been 206 hours. *Form Number:* CMS–10623 (OMB control number: 0938-New); *Frequency:* Once; *Affected Public:* Individuals and households; *Number of Respondents:* 576; *Total Annual Responses:* 576; *Total Annual Hours:* 190. (For policy questions regarding this collection contact Kerry Lida at 410–786–4826.)

Dated: September 21, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2016–23157 Filed 9–23–16; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Evaluation of the Child Welfare Capacity Building Collaborative: Part Two.

OMB No.: New Collection.

Description: This new data collection is the second part of a larger data collection effort being conducted for the evaluation of the Child Welfare Capacity Building Collaborative. The first group of instruments has already been submitted for this evaluation. This notice details the second group of instruments that will be used for data collection as part of this evaluation. The Evaluation of the Child Welfare Capacity Building Collaborative is sponsored by the Children's Bureau, Administration for Children and Families of the U.S. Department of Health and Human Services. The Capacity Building Collaborative includes three centers (Center for States, Center for Tribes, Center for Courts) funded by the Children's Bureau to provide national child welfare expertise and evidence-informed training and technical assistance services to State, Tribal and Territorial public child welfare agencies and Court Improvement Programs (CIP). The Centers offer a wide array of services including, but not limited to: Web-based content and resources, product development and dissemination, self-directed and group-based training, virtual learning and peer networking events, and tailored consultation and coaching. During the project period the Centers' services will be evaluated by both Center-specific evaluations and a Cross-Center Evaluation. The Center-specific evaluations are designed to collect data on Center-specific processes and outcomes. The Cross-Center Evaluation is designed to respond to a set of cross-cutting evaluation questions posed by the Children's Bureau. The Cross-Center Evaluation will examine: The extent to which key partners across and within the Centers are collaborating; whether the capacity building service interventions offered by the Centers are evaluable; the degree to which Centers follow common protocols; whether service interventions are delivered or performed as designed; how satisfied recipients are with the services received; how effective the service interventions were; which service approaches were most effective and under what conditions; and the costs of services.

The Cross-Center Evaluation is utilizing a longitudinal mixed methods approach to evaluate the Centers' services as they develop and mature over the course of the study period. Multiple data collection strategies will be used to efficiently capture quantitative and qualitative data to enable analyses that address each evaluation question. Proposed Cross-Center Evaluation data sources for this effort include: (1) A capacity survey to capture perceived changes in organizational capacity after receiving Center services; (2) a tailored services satisfaction survey administered in conjunction with the capacity survey to capture satisfaction with tailored services; (3) a foundational assessment to capture contextual data regarding the organizational health and functioning of child welfare agencies and courts; (4) a follow-up survey that will examine short-term and intermediate outcomes among CIPs that receive different levels of tailored services following continuous quality improvement (CQI) workshops; and (5) a key informant survey and interview to examine how capacity building services are incorporated into state and tribal activities to support implementation of Public Law 113–183. Center-specific data sources for this effort include (1) registration forms such as the webinar and learning management system (CapLEARN) registration forms and (2) service-specific feedback forms and interviews, such as the Center for States Tailored Services interviews and the Center for Courts Universal and Constituency Services survey.

Respondents: Respondents of data collection instruments will include (1) child welfare agency staff and stakeholders who directly receive services that have been tailored to the needs of their jurisdiction and (2) CIP coordinators, CIP Directors, and other project staff. The proposed data collection will span three years.

ANNUAL BURDEN ESTIMATES

Instrument	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Total annual burden hours
Capacity Survey	462	1	.3	138.60
Tailored Services Satisfaction Survey	462	1	.083	38.35
Foundational Assessment Survey	277	1	.1	27.7
CQI Workshop Follow-Up Survey	48	2	.12	11.52
Public Law 113–183 Key Informant Survey	52	1	.26	13.52
Public Law 113–183 Key Informant Interview	5	1	1	5
Center for Courts: Universal and Constituency Services	104	1	.41	42.64
Webinar Registration	4650	1	.03	139.5
Center for States: Tailored Services Interviews	60	1	1	60
Center for States: Assessment and Work Planning Survey	150	1	.25	37.5
CapLEARN Registration	600	1	.084	50.4

Estimated Total Annual Burden Hours: 564.73.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *OPREinfocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–6974, Attn: Desk Officer for the

Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2016–23058 Filed 9–23–16; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0882]

Generic Drug User Fees; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting to discuss proposed recommendations for the reauthorization of the Generic Drug User Fee Amendments of 2012 (GDUFA), which authorizes FDA to collect fees and use them for the review of certain generic human drug applications and associated Type II active pharmaceutical ingredient (API) drug master files (DMFs), and for conducting associated inspections for fiscal years (FYs) 2018 through 2022. The legislative authority for GDUFA expires at the end of September 2017. At that time, new legislation will be required for FDA to continue to collect generic drug user fees for future fiscal years. Following discussions with the regulated industry and periodic consultations with public stakeholders, the Federal Food, Drug, and Cosmetic Act (the FD&C Act) directs FDA to present the recommendations to the relevant Congressional committees, publish the recommendations for the reauthorized program in the **Federal Register**, provide for a period of 30 days for the public to provide written comments on such recommendations, and hold a meeting at which the public may present its views on such recommendations. FDA will then consider such public views and comments and revise such recommendations as necessary.

DATES: The public meeting will be held on October 21, 2016, from 9 a.m. to 5 p.m. Submit electronic or written comments to the public docket by November 7, 2016.

ADDRESSES: The meeting will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993. Entrance for the public meeting participants (non-FDA employees) is through Building 1, where routine security check procedures will be performed. For parking and security information, refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA–2012–N–0882 for "Generic Drug User Fees; Public Meeting; Request for Comments." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FDA will post the agenda approximately 5 days before the meeting at *www.fda.gov/gdufa.*

FOR FURTHER INFORMATION CONTACT: Derek Griffing, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1673, Silver Spring, MD 20993, 240–402–6980, email: *GenericDrugPolicy@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

FDA is announcing a public meeting to discuss proposed recommendations for the reauthorization of GDUFA, which authorizes FDA to collect user fees related to human generic drugs and use them for the process of the review of certain generic human drug applications and associated submissions, to conduct related inspections, and to engage in other related activities for FYs 2018 to 2022. Without new legislation, FDA will no longer be able to collect user fees to fund the human generic drug review process for future fiscal years. Section 744(C)(d)(4) (21 U.S.C. 379j–43(d)(4)) of the FD&C Act requires that after FDA holds negotiations with regulated industry and periodic consultations with stakeholders, we do the following: (1) Present the recommendations to the relevant Congressional committees, (2) publish such recommendations in the **Federal Register**, (3) provide for a period of 30 days for the public to provide written comments on such recommendations, (4) hold a meeting at which the public may present its views on such recommendations, and (5) consider such public views and comments and revise such recommendations as necessary. This notice, the 30-day comment period, and the public meeting will satisfy some of these requirements. After the public meeting, we will revise the recommendations as necessary and present our proposed recommendations to the Congressional committees.

II. What is GDUFA and what does it do?

GDUFA is a law that authorizes FDA to collect fees from drug companies that submit marketing applications for certain generic human drug applications, certain DMFs, and certain facilities. It was originally enacted as part of the Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112–144) for a period of 5 years.

GDUFA's intent is to provide additional revenues so that FDA can hire more staff, improve systems, and establish a better-managed generic drug review process to improve access to quality, affordable generic medicines. As part of FDA's agreement with industry, the Agency agreed to certain performance goals. Major goals of GDUFA included: (1) Review and act on 90 percent of complete, electronic abbreviated new drug applications (ANDAs) submitted in FY 2017 within 10 months after the date of submission; (2) review and act on 90 percent of all ANDAs, ANDA amendments, and ANDA prior approval supplements (PASs) pending as of October 1, 2012 (*i.e.*, pre-GDUFA "backlog" submissions) by the end of FY 2017; (3) achieve risk-based inspection parity with respect to foreign and domestic generic API and generic finished dosage form manufacturers in FY 2017; (4) implement various efficiency enhancements on October 1, 2012; and (5) continue to undertake certain regulatory science initiatives. To date, FDA has met or exceeded all of its GDUFA commitments. The funding provided by GDUFA has enabled FDA to modernize the generic drug review process.

III. Proposed GDUFA II Recommendations

In preparing the proposed recommendations to Congress for GDUFA reauthorization (GDUFA II), we have conducted discussions with the regulated industry, and we have consulted with stakeholders as required by the law. We began the GDUFA reauthorization process with a public meeting held on June 15, 2015 (80 FR 22204, April 21, 2015). The meeting included presentations by FDA and a series of presentations from different stakeholder groups, including patient advocates, consumer groups, regulated industry, health professionals, and academic researchers. The stakeholders were asked to respond to the following questions:

- What is your assessment of the overall performance of the GDUFA program to date?
- What aspects of GDUFA should be retained, changed, or discontinued to further strengthen and improve the program?

Following the June 2015 public meeting, FDA conducted negotiations with regulated industry and continued monthly consultations with public stakeholders from October 2015 through August 2016. As directed by Congress, FDA posted minutes of these discussions on its Web site at *http://www.fda.gov/ForIndustry/UserFees/GenericDrugUserFees/default.htm* (Under GDUFA **Federal Register** Notices). The proposed enhancements for GDUFA II address many of the top priorities identified by public stakeholders, the top concerns identified by regulated industry, and the most important challenges identified within FDA. These include the new submission review performance goals, review program enhancements, proposals to enhance regulatory science and expedite drug development for complex products, and proposals to enhance facility assessments. The full descriptions of these proposed recommendations can be found in the proposed GDUFA II Commitment Letter (proposed Commitment Letter) which will be posted prior to the public meeting on FDA's Web site at *www.fda.gov/gdufa.*

The enhancements are described below with reference to the section of the draft Commitment Letter where more detailed information can be found.

A. Submission Review Performance Goals

The GDUFA submission review performance goals were very complex. Different cohorts and tiers of submissions received very different review goals. The first cohort was the pre-GDUFA "backlog." FDA agreed to take a first action on 90 percent of ANDAs pending as of the date of enactment (*i.e.*, ANDAs in the pre-GDUFA "backlog") by the end of FY 2017. However, none of these individual ANDAs received goal dates; FDA's metric goal applied to the pre-GDUFA "backlog" cohort as a whole. Moreover, there were no goals for any subsequent amendments submitted in response to FDA first actions on the backlog ANDAs. The second cohort comprised ANDAs submitted in Years 1 and 2 of the program (FYs 2013 and 2014). They also did not receive goal dates; FDA agreed to maintain pre-GDUFA levels of productivity in Years 1 and 2. The third, fourth, and fifth cohorts were ANDAs submitted in Years 3, 4, and 5 of the program (FYs 2015, 2016, and 2017). They obtained goal dates, which became more rigorous for each FY cohort. There was also, as a practical matter, an effective sixth cohort: In the course of implementing GDUFA, FDA informally committed to assign "Target Action Dates" to "pre-Year 3" ANDAs and ANDA amendments, which had not obtained formal goal dates under GDUFA. Target Action Dates were aspirational deadlines for action on these submissions.

For GDUFA II, FDA proposes two major changes to the submission review goals: First, all ANDAs and ANDA amendments would fall within a single, consolidated, review goals scheme to simplify and streamline program administration, promote review efficiency, and ensure that "no submission is left behind." Second, GDUFA II would create faster review goals for priority submissions. For an ANDA, standard review would be 10 months from submission and priority review would be 8 months from submission. Priority review would be available for submissions that FDA considers to be public health priorities pursuant to CDER's Manual of Policies and Procedures (MAPP) 5240.3 Rev.2, "Prioritization of the Review of Original

ANDAs, Amendments and Supplements," as revised (the CDER Prioritization MAPP),[1] if the applicant submits a pre-submission facility correspondence 2 months prior to the date of ANDA submission and the pre-submission facility correspondence is found to be complete and accurate and remains unchanged. The purpose of the pre-submission facility correspondence is to give the Agency lead time to conduct planning for a high volume of facility assessments, which frequently impact ANDA approvability. "Pre-Submission Facility Correspondence" is defined in section VII(S) of the proposed Commitment Letter.

The proposed submission review performance goals and procedures are set forth in section I of the proposed Commitment Letter.

B. Original ANDA Review Program Enhancements

GDUFA I contained several enhancements of a general nature related to review efficiency and communications transparency, such as the adoption of complete response letters (CRLs) and continuing communication of easily correctible deficiencies. These enhancements, as operationalized, did not meet industry's expectations and were reportedly commercially disruptive. The regulated industry expressed strong concerns. In response, during Years 2 and 3 of GDUFA I, FDA further developed and refined its ANDA review and communications procedures. These newly developed procedures, along with additional procedures developed in GDUFA II discussions with the regulated industry, are set forth in the proposed Commitment Letter. GDUFA II's ANDA review enhancements are substantially more specific and programmatic than corresponding elements of GDUFA I. They would refine and enhance the efficiency of the ANDA review process from start to finish.

The GDUFA II ANDA review program would start with submission of an ANDA. FDA would strive to determine whether to receive an ANDA within 60 days of the date of ANDA submission. The Agency would also issue a MAPP setting forth procedures for filing reviewers on communication of minor technical deficiencies and on deficiencies potentially resolved with information in the ANDA at original submission, in order to provide applicants with an opportunity for resolution within 7 calendar days. If such a deficiency is resolved within 7 calendar days, that deficiency would not be a basis for a refuse-to-receive decision. These ANDA receipt enhancements are set forth in section II(A) of the proposed Commitment Letter.

When FDA has received the ANDA and it is under review, FDA would use information requests (IRs) and/or discipline review letters (DRLs) to communicate review deficiencies beginning at about the mid-point of the review. Following the IR and/or DRL at about the mid-point of the review, IRs and/or DRLs would, as appropriate, continue for each review discipline on a rolling basis. Neither IRs nor DRLs would stop the review clock or add to a GDUFA goal. If an applicant is unable to completely respond within the timeframe requested by FDA, including any extensions that may be granted by FDA, then FDA would generally issue a CRL. FDA would continue to issue IRs and/or DRLs late in the review cycle, until it is no longer feasible, within the current review cycle, for the applicant to develop and FDA to review a complete response to the IR and/or DRL. FDA should continue to work through the goal date if in FDA's judgment continued work would likely result in an imminent tentative approval that could prevent forfeiture of 180-day exclusivity or an imminent approval. FDA would strive to act prior to a goal date when the review is done and there are no longer any outstanding issues. These program enhancements are set forth in sections II(B)(1)–(7). They would result in more opportunities for applicants to address deficiencies within the current review cycle, instead of waiting to receive them in a later-issued CRL. Such "rolling review" would promote a more efficient and effective review process and increase the overall rate of ANDA approval.

During the review, to provide transparency concerning review status and the potential timing of FDA action, regulatory project managers would timely provide review status updates upon request of an applicant's authorized representative, notify applicants of certain likely forthcoming major deficiencies, and notify applicants if FDA is likely to miss the goal date for a submission. These program enhancements are set forth in sections II(B)(8)–(10). They would support product launches and other types of business planning that can improve consumer access to generic drugs. "Review Status Update" is defined in section VII(W).

To facilitate timely approvals and tentative approvals, GDUFA II would provide that if applicants submit and maintain ANDAs consistent with the statutory requirements for approval under 505(j); respond to IRs and DRLs completely and within the timeframes requested by FDA, and timely submit all required information under 21 CFR parts 314 and 210, including information concerning notice (§ 314.95), litigation status (§ 314.107), and commercial marketing (§ 314.107); then FDA will strive to approve approvable ANDAs in the first review cycle; to approve potential first generics on the earliest lawful approval date, if known to FDA; and to tentatively approve first to file paragraph IV ANDAs so as to avoid forfeiture of 180-day exclusivity. This is set forth in section II(D) of the proposed Commitment Letter.

If the applicant receives a CRL rather than an approval, post-CRL teleconferences would be available. They would enable applicants to seek clarification concerning deficiencies identified in a CRL. FDA would grant appropriate requests for teleconferences concerning first cycle major and subsequent CRLs. There are metric goals for FDA to schedule and conduct post-CRL teleconferences. These program enhancements are set forth in sections II(B)(11)–(12).

With respect to dispute resolution, the proposed Commitment Letter would provide that applicants may review requests for reconsideration at the Division level or original signatory authority, as needed. Following requests for reconsideration, applicants may pursue formal dispute resolution above the Division level. There would be metric goals for FDA to respond to appeals above the Division level. This is set forth in section II(E).

The purpose of the proposed ANDA review transparency and communications enhancements is to improve predictability and transparency, promote the efficiency and effectiveness of the review process, minimize the number of review cycles necessary for approval, increase the overall rate of approval, and facilitate greater consumer access to generic drug products.

C. Pre-ANDA Program and Subsequent Mid-Review Cycle Meetings for Complex Products

The proposed GDUFA II pre-ANDA program for complex products is new. "Complex Products" is defined in section VII(I) of the proposed Commitment Letter and would generally include products with complex active ingredients, formulations, routes of delivery, or dosage forms; complex drug-device combination products; and other products where complexity or uncertainty concerning the approval pathway or possible alternative approach would benefit from early scientific engagement.

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[1] *http://www.fda.gov/downloads/AboutFDA/CentersOffices/OfficeofMedicalProductsandTobacco/CDER/ManualofPoliciesProcedures/UCM407849.pdf.*

The pre-ANDA program would build an enhanced pathway for complex products, with product development, pre-submission, and mid-review-cycle meetings as set forth in sections III(D)–(F) of the proposed Commitment Letter. FDA would issue a guidance concerning the pathway. A prospective ANDA applicant granted a product development meeting would have the option of a pre-submission meeting and also the option of a mid-review-cycle meeting, subject to policies and procedures to be set forth in the guidance. A product development meeting would involve scientific exchange to discuss specific issues (for example, a proposed study design, alternative approach, or additional study expectations) or questions. In a product development meeting, FDA would provide targeted advice concerning an ongoing ANDA development program. A pre-submission meeting would give an applicant an opportunity to discuss and explain the content and format of an ANDA to be submitted, but would not include substantive review of summary data or full study reports. Post-submission, after the last key discipline has issued its IR and/or DRL, the Agency would schedule a teleconference with the applicant to discuss current concerns with the application and next steps. There would be metric goals for FDA to grant or deny and to conduct product development and pre-submission meetings.

The GDUFA II pre-ANDA program for complex products would also include metric goals for the issuance of product-specific guidance. Specifically, FDA would issue product-specific guidance identifying the methodology for developing drugs and generating evidence needed to support ANDA approval, for 90 percent of new chemical entity new drug applications that are approved on or after October 1, 2017, at least 2 years prior to the earliest lawful approval date. This goal would not apply to complex products. (The pre-ANDA program would have meetings for complex products for which product-specific guidance has not been issued.) FDA would strive to issue product-specific guidance for complex products as soon as scientific recommendations are available. In addition, FDA would continue to develop and issue product-specific guidance based on requests from the regulated industry and public health priorities as set forth in the CDER Prioritization MAPP. These enhancements are set forth in section III.C of the proposed Commitment Letter.

The pre-ANDA program would also include enhancements concerning controlled correspondence, regulatory science, the Inactive Ingredient Database, and safety determination letters. Notably, there would be separate review goals for complex controlled correspondence, to provide answers concerning discrete complex product development questions.

The purpose of the proposed GDUFA II pre-ANDA program for complex products is to clarify regulatory expectations for prospective applicants early in product development, help applicants develop more complete submissions, promote a more efficient and effective review process, and reduce the number of review cycles to obtain ANDA approval of complex products.

D. DMF Review Program Enhancements

GDUFA II also proposes targeted enhancements of current DMF review procedures. DMF review comments submitted to the DMF holder would be issued at least in parallel with the issuance of review comments relating to the DMF for the ANDA. The proposed Commitment Letter would also establish procedures and timelines for teleconferences to clarify DMF first-cycle review deficiencies. Once a DMF has undergone a full scientific review and has no open issues related to the review of the referencing ANDA, FDA would issue a First Adequate Letter. Once the DMF has undergone a complete review and the ANDA referencing it has been approved or tentatively approved, FDA would issue a No Further Comments Letter. By FY 2019, FDA would issue a guidance regarding post-approval changes to a Type II DMF and submission mechanisms for ANDA applicants who reference it. These enhancements are set forth in section IV of the proposed Commitment Letter.

E. Facility Assessment

FDASIA eliminated long-standing minimum inspection frequency requirements and directed FDA instead to inspect drug facilities globally on the basis of risk. Industry sources have asserted that the transition to a new paradigm has been commercially disruptive for the regulated industry, which over time had developed procedures and expectations based on the old model. While facility assessment cuts across multiple FDA drug programs, GDUFA II contains several facility-related enhancements targeted to generic industry-specific challenges.

To mitigate export related challenges identified by U.S.-based API manufacturers, FDA would issue a guidance explaining the risk-based site selection model, undertake outreach to foreign regulators on the risk-based site selection model, and support the export of safe and effective pharmaceutical products by the U.S.-based pharmaceutical industry, including through the issuance of communications conveying the current compliance status of U.S. manufacturing facilities to foreign regulators. These enhancements are set forth in sections V(A)–(D).

To mitigate ANDA sponsor concerns regarding the transparency and speed of facility assessment and its impact on ANDA approvability and product launch, FDA would communicate outstanding facility issues that could prevent approval of an ANDA or PAS through an IR, DRL, or CRL; and communicate to the facility owner final inspection classifications that do not negatively impact approvability of any pending application within 90 days of the end of the inspection. In addition, FDA would provide updates to and seek feedback from industry stakeholders regarding facility assessment. These enhancements would occur in FYs 2018 and 2019. They are described in section V(E).

To enhance transparency concerning the compliance status of GDUFA self-identified facilities and sites, FDA would update its existing, publicly available database beginning in FY 2019. This is described in section V(F).

F. Enhanced Accountability and Reporting

FDA proposes to build internal capacity to enable improved productivity and performance through regular assessment of progress towards GDUFA II goals, consistent methodologies for and timely reporting of GDUFA II metrics, transparent and efficient administration, and allocation and reporting of user fee resources.

FDA would conduct activities to develop a resource management planning function and a modernized time reporting approach to GDUFA II. This is described in section VI(A) of the proposed Commitment Letter.

FDA would also conduct activities to evaluate the financial administration of the GDUFA II program to help identify areas to enhance operational and fiscal efficiency, and to enhance transparency of how GDUFA program resources are used. This is described in section VI(B).

The Agency would also expand its performance reporting by publishing robust monthly, quarterly and annual program performance metrics, as described in section VI(C). Enhanced performance reporting would enable Congress, the regulated industry, patient and consumer groups, and other stakeholders to better gauge the generic drug program's performance.

G. Enhancements to Fee Structure and Related Mechanisms To Provide Small Business Relief and Increase Predictability, Stability, and Efficiency

The proposed GDUFA II fee structure was designed to provide FDA with predictable, adequate funding for its human generic drug review programs, divide fee responsibilities equitably across different segments of the industry, and provide for small business considerations in a number of ways.

GDUFA II will be funded at a level commensurate with the amount of work associated with incoming ANDAs, since ANDAs are the primary workload driver of GDUFA. In order to provide a more predictable revenue base, GDUFA II will include an annualized "program fee" for ANDA holders. This annual fee will help offset the fluctuations in application fees from 1 year to another. An ANDA sponsor will pay a fee based on the total number of approved ANDAs that it and its affiliates own. ANDA sponsors will be split into three tiers based on ANDA ownership. The proposed tier cutoffs were determined by industry and are meant to reflect a firm's size, position in the market, and reliance on the program. With the introduction of the program fee, FDA has eliminated the fee for PASs.

In addition to program fees based on total ANDA ownership, the proposed fee structure includes two other distinct considerations for small businesses. First, under GDUFA I, a facility would pay an annual fee if it was listed in an ANDA, regardless of whether it was listed in any approved ANDAs. As a result, a facility that is listed only in pending applications is charged an annual GDUFA fee even though it has no generic drug revenue stream. Under GDUFA II, no facility or ANDA sponsor would be charged an annual fee until an ANDA in which it is listed is approved. Second, the proposed structure adds a facility category for contract manufacturing organizations (CMOs). CMOs are generally small businesses that are hired by ANDA sponsors to manufacture their generic drugs. Alternatively, some ANDA sponsors manufacture their own drugs. Under the GDUFA II fee structure, CMOs will pay one-third the annual fee paid by firms that manufacture under ANDAs which they or their affiliates own.

The full descriptions of these proposed recommendations will be posted prior to the public meeting on FDA's Web site at *www.fda.gov/gdufa*.

IV. Purpose and Scope of the Meeting

If you wish to attend this meeting, please email your registration information to Derek Griffing (see **FOR FURTHER INFORMATION CONTACT**) by October 7, 2016. Your email should contain complete contact information for each attendee, including name, title, affiliation, address, email address, and telephone number. Registration is free and is on a first-come, first-served basis. However, FDA may limit the number of participants from each organization based on space limitations. Registrants will receive confirmation once they have been accepted. Onsite registration on the day of the meeting will be based on space availability. If you need special accommodations because of a disability, please contact Derek Griffing (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days before the meeting.

The meeting will include a presentation by FDA and a series of invited panels representing different stakeholder groups identified in the statute (such as patient advocacy groups, consumer advocacy groups, health professionals, and regulated industry). We will also provide an opportunity for other organizations and individuals to make presentations at the meeting or to submit written comments to the docket before the meeting.

If you wish to present at the meeting, please include your presentation materials along with your registration information to Derek Griffing (see **FOR FURTHER INFORMATION CONTACT**) by October 7, 2016. Early requests for oral presentations are recommended due to possible space and time limitations. FDA will accommodate as many requests for oral presentations as possible and will do so on a first-come, first-served basis. The time allotted for presentations may depend on the number of persons who wish to speak. Those requesting to present will receive confirmation once they have been accepted. Onsite requests for oral presentations on the day of the meeting will be based on time and space availability. If the entire meeting time is not needed, FDA may end the public meeting early.

V. Transcript Request

Please be advised that as soon as a transcript is available, it will be accessible at *www.fda.gov/gdufa* and in this docket at *http://www.regulations.gov*.

It may be viewed at the Division of Dockets Management, Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD. A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. The Freedom of Information office address is available on the Agency's Web site at *http://www.fda.gov*.

Dated: September 21, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–23111 Filed 9–23–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–2610]

A List of Biomarkers Used as Outcomes in Development of FDA-Approved New Molecular Entities and New Biological Therapeutics (October 2007 to December 2015); Establishment of a Public Docket; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration is correcting a notice entitled "A List of Biomarkers Used as Outcomes in Development of FDA-Approved New Molecular Entities and New Biological Therapeutics (October 2007 to December 2015); Establishment of a Public Docket" that appeared in the **Federal Register** of September 19, 2016 (81 FR 64177). The document announced the establishment of a docket to receive suggestions, recommendations, and comments from interested parties (such as academic researchers, regulated industries, consortia, and patient groups) on a list of biomarkers that were used as outcomes to develop FDA-approved new molecular entities (NMEs) and New Biological Therapeutics from October 2007 to December 2015. The document was published without an active Web link. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Lisa Granger, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 3330, Silver Spring MD 20993–0002, 301–796–9115, *lisa.granger@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of Monday, September 19, 2016, in FR Doc. 2016–22470, on page 64178 the following correction is made:

On page 64178, in the second column, in the last sentence of the first paragraph under Section I, Background, "Biomarkers Used as Outcomes in Development of FDA-Approved Therapeutics (October 2007 to December 2015)" is corrected to read "*http://www.fda.gov/Drugs/DevelopmentApprovalProcess/DrugDevelopmentToolsQualificationProgram/ucm483052.htm*".

Dated: September 21, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–23106 Filed 9–23–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Supplement for Zika Response, a Single-Award Deviation From Competition Requirements for the National Center for Medical Home Implementation Cooperative Agreement

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA announces the award of a supplement in the amount of $350,000 for the National Center for Medical Home Implementation (NCMHI) cooperative agreement. The purpose of the NCMHI cooperative agreement is to support a national resource and assistance effort to implement and spread the medical home model to all children and youth, particularly children with special health care needs (CSHCN), children who are vulnerable and/or medically underserved, and pediatric populations served by state public health programs, the Maternal and Child Health Bureau (MCHB), and HRSA. The supplement will permit the American Academy of Pediatrics (AAP), the cooperative agreement awardee, during the budget period of July 1, 2016–June 30, 2017, to enhance their capacity to provide technical assistance and health professional education to increase the clinical expertise of pediatric health care professionals, including safety net providers, to more effectively serve as the medical home and provide family-centered, comprehensive, coordinated, and culturally-effective care for Zika-affected children and their families.

FOR FURTHER INFORMATION CONTACT: Marie Y. Mann, MD, MPH, FAAP, Division of Services for Children with Special Health Needs, Maternal and Child Health Bureau, Health Resources and Services Administration, 5600 Fishers Lane, Room 18W61, Rockville, Maryland 20857; *MMann@hrsa.gov.*

SUPPLEMENTARY INFORMATION:

Intended Recipient of the Award: The American Academy of Pediatrics.

Amount of Non-Competitive Awards: $350,000.

Period of Supplemental Funding: 7/1/2016–6/30/2017.

CFDA Number: 93.110.

Authority: Social Security Act, Title V, sections 501(a)(1)(D) and 501(a)(2), (42 U.S.C. 701(a)(1)(D) and 701(a)(2))

Justification: Zika virus infection during pregnancy dramatically increases the risk of birth defects. Microcephaly has been linked to Zika virus infection during pregnancy, and the extent of other possible birth defects is unclear. As of August 25, 2016, there are 624 pregnant women in the 50 states and the District of Columbia reported to have the Zika virus infection. In Puerto Rico, over 600 pregnant women have been reported to have the Zika virus infection as a result of exposure to the Zika virus during pregnancy. However, pediatric specialty expertise to care for their babies is limited. Currently, no network exists to link providers caring for these patients with those who have relevant expertise or experience in managing infants and children of women exposed to Zika virus during pregnancy. Discussions of developmental screening, clinical management, and family support approaches will help clinicians serving this population, thereby increasing access to well-coordinated, family-centered care and management in a medical home for children and families impacted by Zika-related complications.

The purpose of the NCMHI cooperative agreement is to support a national resource and assistance effort to implement and spread the medical home model to all children and youth, particularly CSHCN, children who are vulnerable and/or medically underserved, and pediatric populations served by state public health programs, MCHB, and HRSA. In 2013, following objective review of its competitive application, HRSA awarded the NCMHI cooperative agreement to AAP, a nonprofit, tax-exempt organization under Internal Revenue Code 501(c)(3).

This supplement to the NCMHI cooperative agreement provides technical assistance and education, including tele-mentoring, to clinicians providing care for children who are or may be impacted by Zika at HRSA-supported health centers and elsewhere within the United States (including U.S. territories and jurisdictions). Using the tele-mentoring technology, clinicians will team with specialists elsewhere to provide clinicians with the tools and resources to improve care delivery within the medical home, thereby increasing the sustainability of the medical home model for children affected by Zika. Though available to all clinicians, technical assistance and education will be directed primarily toward pediatric primary care physicians in areas at high-risk for Zika and toward clinicians operating in health centers supported by HRSA's Bureau of Primary Health Care. These activities will provide critical knowledge to health care professionals, including safety net providers, to more effectively serve as the medical home for children affected by Zika and their families.

Grantee/organization name	Grant No.	State	FY 2016 authorized funding level	FY 2016 estimated funding for this supplement
The American Academy of Pediatrics	U43MC09134	IL	$1,300,031	$350,000

Dated: September 19, 2016.

James Macrae,

Acting Administrator.

[FR Doc. 2016–23096 Filed 9–23–16; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy And Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01).

Date: October 18, 2016.

Time: 1:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: James T. Snyder, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities/Room 3G31B, National Institutes of Health, NIAID, 5601 Fishers Lane MSC 9823, Rockville, MD 20892, (240) 669–5060, *james.snyder@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 21, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–23139 Filed 9–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; RAPID ASSESSMENT OF ZIKA VIRUS (ZIKV) COMPLICATIONS (R21).

Date: October 20, 2016.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Jay R. Radke, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room #3G11B, National Institutes of Health, NIAID, 5601 Fishers Lane, MSC–9823, Bethesda, MD 20892–9823, (240) 669–5046, *jay.radke@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 21, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–23142 Filed 9–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Allergy, Immunology, and Transplantation Research Committee.

Date: October 20, 2016.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: James T. Snyder, Ph.D., Scientific Review Officer Scientific Review Program, Division of Extramural Activities/Room 3G31B, National Institutes of Health, NIAID, 5601 Fishers Lane, MSC 9834, Bethesda, MD 20892–9834, (240) 669–5060, *james.snyder@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 19, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–23140 Filed 9–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute, Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Heart, Lung, and Blood Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Advisory Council.

Date: October 26, 2016.

Open: 8:00 a.m. to 1:00. p.m.

Agenda: To discuss program policies and issues.

Place: National Institutes of Health, Porter Neuroscience Research Center, Building 35A, Convent Drive, Room 640, Bethesda, MD 20892.

Closed: 1:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Porter Neuroscience Research Center, Building 35A Convent Drive, Room 640, Bethesda, MD 20892.

Contact Person: Valerie L. Prenger, Ph.D., MPH, Acting Division Director, Division of Extramural Research Activities, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7214, Bethesda, MD 20892–7924, 301–435–0270, *prengerv@nhlbi.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.nhlbi.nih.gov/meetings/nhlbac/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 20, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–23038 Filed 9–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel; Clinical Sequencing Evidence-Generating Research (CSER2) SEP.

Date: November 30, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda Downtown, 7335, Calvert I & II, Wisconsin Avenue, Bethesda, MD.

Contact Person: Keith McKenney, Ph.D., Scientific Review Officer NHGRI, 5635 Fishers Lane, Suite 4076, Bethesda, MD 20814, 301–594–4280, *mckenneyk@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: September 20, 2016.

Sylvia L. Neal,

Program Analyst,, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–23138 Filed 9–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; TRND1.

Date: October 18, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: Hilton Washington DC/Rockville Hotel Location: Plaza 1 and 2, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Rahat (Rani) Khan, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences, 6701 Democracy Blvd., Rm 1078, Bethesda, MD 20892, 301–894–7319, *khanr2@csr.nih.gov.*

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; CTSA Collaborative Innovation Award (U01) Review.

Date: October 18–19, 2016.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Democracy Blvd., Room 1068, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: M. Lourdes Ponce, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1073, Bethesda, MD 20892, 301–435–0810, *lourdes.ponce@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: September 20, 2016.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–23037 Filed 9–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group; Kidney, Urologic and Hematologic Diseases D Subcommittee.

Date: October 19–20, 2016.

Open: October 19, 2016, 8:00 a.m. to 8:30 a.m.

Agenda: To review policy and procedures.

Place: Embassy Suites Hotel, 4300 Military Road, Washington, DC 20015.

Closed: October 19, 2016, 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel, 4300 Military Road, Washington, DC 20015.

Closed: October 20, 2016, 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel, 4300 Military Road, Washington, DC 20015.

Contact Person: Barbara A. Woynarowska, Ph.D., Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7009, 6707 Democracy Boulevard Bethesda, MD 20892–5452, (301) 402–7172, *woynarowskab@niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review; Group; Digestive Diseases and Nutrition C Subcommittee.

Date: October 19–21, 2016.

Open: October 19, 2016, 6:00 p.m. to 6:30 p.m.

Agenda: To review policy and procedures.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Closed: October 19, 2016, 6:30 p.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Closed: October 20, 2016, 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Closed: October 21, 2016, 8:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Robert Wellner, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7015, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, *rw175w@nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group; Diabetes, Endocrinology and Metabolic Diseases B Subcommittee.

Date: October 26–28, 2016.

Open: October 26, 2016, 5:00 p.m. to 5:30 p.m.

Agenda: To review policy and procedures.

Place: Residence Inn Capital View, 2850 South Potomac Avenue, Arlington, VA 22202.

Closed: October 26, 2016, 5:30 p.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Capital View, 2850 South Potomac Avenue, Arlington, VA 22202.

Closed: October 27, 2016, 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Capital View, 2850 South Potomac Avenue, Arlington, VA 22202.

Closed: October 28, 2016, 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Capital View, 2850 South Potomac Avenue, Arlington, VA 22202.

Contact Person: John F. Connaughton, Ph.D., Chief, Chartered Committees Section, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7005, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7797, *connaughtonj@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: September 20, 2016.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–23040 Filed 9–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; R61/R33 Early Phase Clinical Trials.

Date: November 1, 2016.

Time: 8:30 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: David I. Sommers, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; R01—Non-Pharmacological Confirmatory Efficacy Clinical Trials.

Date: November 1, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: David I. Sommers, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: September 20, 2016.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–23042 Filed 9–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Hepatobiliary Pathophysiology Study Section.

Date: October 20–21, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101.

Contact Person: Jianxin Hu, Ph.D., Scientific Review Officer, NINDS/NIH, Scientific Review Branch, 6001 Executive Blvd., Bethesda, MD 20892, *jianxinh@mail.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Social Sciences and Population Studies B Study Section.

Date: October 20, 2016.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Kate Fothergill, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3142, Bethesda, MD 20892, 301–435–2309, *fothergillke@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR15–359: Biomarker Studies for Diagnosing Alzheimer's Disease and Predicting Progression.

Date: October 20, 2016.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Paula Elyse Schauwecker, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Room 5211, Bethesda, MD 20892, *schauweckerpe@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–15–075: Academic Industrial Partnership.

Date: October 21, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Guo Feng Xu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, 301–237–9870, *xuguofen@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Learning, Memory, Language, Communication and Related Neurosciences.

Date: October 21, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave. NW., Washington, DC 20037.

Contact Person: Susan Gillmor, Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–435–1730, *susan.gillmor@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Leishmaniasis Disease.

Date: October 21, 2016.

Time: 8:30 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Washington DC Downtown, 199 Vermont Ave. NW., Washington, DC 20005.

Contact Person: Fouad A. El-Zaatari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7808, (301) 435–1149, *elzaataf@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Collaborative Applications: Child Psychopathology.

Date: October 21, 2016.

Time: 3:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Jane A. Doussard-Roosevelt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 435–4445, *doussarj@csr.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Developmental Therapeutics Study Section.

Date: October 24–25, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Lorien Hotel & Spa, 1600 King Street, Alexandria, VA 22314

Contact Person: Sharon K. Gubanich, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 408–9512, *gubanics@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurobiology of Learning and Memory Study Section

Date: October 24, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza Hotel, 10 Thomas Circle, NW., Washington, DC 20005.

Contact Person: Nicholas Gaiano, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892–7844, 301–435–1033, *gaianonr@csr.nih.gov.*

Name of Committee: Vascular and Hematology Integrated Review Group; Vascular Cell and Molecular Biology Study Section.

Date: October 24–25, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel, 4300 Military Road, Washington, DC 20015.

Contact Person: Larry Pinkus, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Biobehavioral Mechanisms of Emotion, Stress and Health Study Section.

Date: October 24–25, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The St. Regis Washington, DC, 923 16th Street NW., Washington, DC 20006.

Contact Person: Samantha Smith, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 3170, Bethesda, MD 20892, *samanthasmith@csr.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Radiation Therapeutics and Biology Study Section.

Date: October 24–25, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Bo Hong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–996–6208, *hongb@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 20, 2016.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–23036 Filed 9–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Time Sensitive Obesity Research.

Date: October 13, 2016.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michele L. Barnard, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7353, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–8898, *barnardm@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS).

Dated: September 20, 2016.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–23041 Filed 9–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: October 31, 2016.

Time: 9:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Joanna Kubler-Kielb, Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Bethesda, MD 2089, 301–435–6916, *kielbj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS).

Dated: September 20, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–23039 Filed 9–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Tropical Medicine Research Centers (U19).

Date: October 25–27, 2016.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Annie Walker-Abbey, Scientific Review Officer, Scientific Review Program, NIAID/NIH/DHHS, 5601 Fishers Lane, Room 3E70A, Rockville, MD 20852, 240–627–3390, *aabbey@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 21, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–23141 Filed 9–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel, U41 SEP.

Date: November 8, 2016.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, 5635FL, 3rd Floor Conf. Room, Fishers Lane, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Keith McKenney, Ph.D., Scientific Review Officer N, NHGRI, 5635 Fishers Lane, Suite 4076, Bethesda, MD 20814, 301–594–4280, *mckenneyk@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: September 20, 2016.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–23136 Filed 9–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skeletal Biology Structure and Regeneration Study Section.

Date: October 13–14, 2016.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Yanming Bi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, 301–451–0996, *ybi@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skeletal Muscle and Exercise Physiology Study Section.

Date: October 17–18, 2016.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Arlington Pentagon City, 550 Army Navy Drive, Arlington, VA 22202.

Contact Person: Richard Ingraham, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7814, Bethesda, MD 20892, 301–496–8551, *ingrahamrh@mail.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Clinical and Integrative Cardiovascular Sciences Study Section.

Date: October 20–21, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Yuanna Cheng, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301)435–1195, *Chengy5@csr.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Respiratory Integrative Biology and Translational Research Study Section.

Date: October 20, 2016.

Time: 8:00 a.m. to 9:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bahia Resort Hotel, 998 West Mission Bay Drive, San Diego, CA 92109.

Contact Person: Bradley Nuss, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7814, Bethesda, MD 20892, 301–451–8754, *nussb@csr.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Electrical Signaling, Ion Transport, and Arrhythmias Study Section.

Date: October 20, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Chee Lim, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, Bethesda, MD 20892, 301–435–1850, *limc4@csr.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Cancer Immunopathology and Immunotherapy Study Section.

Date: October 20–21, 2016.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham Grand Chicago Riverfront, 71 East Wacker Drive, Chicago, IL 60601.

Contact Person: Denise R. Shaw, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7804, Bethesda, MD 20892, 301–435–0198, *shawdeni@csr.nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Biostatistical Methods and Research Design Study Section.

Date: October 20–21, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Peter J. Kozel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, Bethesda, MD 20892, 301–435–1116, *kozelp@mail.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neural Oxidative Metabolism and Death Study Section.

Date: October 24–25, 2016.

Time: 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin Crystal City, 1800 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Carol Hamelink, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7850, Bethesda, MD 20892, (301) 213–9887, *hamelinc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel—Education and Health: New Frontiers.

Date: October 24, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites DC Convention Center, 900 10th Street, Washington, DC 20001.

Contact Person: Gabriel B. Fosu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, MSC 7808, Bethesda, MD 20892, (301) 435–3562, *fosug@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Bacterial Pathogenesis.

Date: October 24, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Richard G. Kostriken, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 240–519–7808, *kostrikr@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Pregnancy and Neonatology Study Section.

Date: October 25–26, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Michael Knecht, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046, *knechtm@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated

Review Group; Macromolecular Structure and Function A Study Section.

Date: October 25–26, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Nitsa Rosenzweig, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7760, Bethesda, MD 20892, (301) 404–7419, *rosenzweign@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Biology of the Visual System Study Section.

Date: October 25–26, 2016.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Michael H. Chaitin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, (301) 435–0910, *chaitinm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Developing and Adult Neural Circuits.

Date: October 25, 2016.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jana Drgonova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5213, Bethesda, MD 20892, *jdrgonova@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Research Resource: Advanced NMR Technology.

Date: October 25–27, 2016.

Time: 7:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Tallahassee Universities at Capitol, 600 W. Gaines St., Tallahassee, FL 32304.

Contact Person: Marie-Jose Belanger, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, Bethesda, MD 20892, *belangerm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Immunotherapy.

Date: October 25, 2016.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Syed M. Quadri, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6210, MSC 7804, Bethesda, MD 20892, 301–435–1211, *quadris@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 21, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–23135 Filed 9–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive Patent License: Development of Adeno-Associated Virus-Based Vectors for the Treatment of Menkes Disease and Related Copper Transport Disorders

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The *Eunice Kennedy Shriver* National Institute of Child Health and Human Development, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Commercialization Patent License to practice the inventions embodied in the U.S. Patents and Patent Applications listed in the Supplementary Information section of this notice to Cyprium Therapeutics, Inc. (“Cyprium”) located in New York, NY, USA.

DATES: Only written comments and/or applications for a license which are received by the National Cancer Institute’s Technology Transfer Center on or before October 11, 2016 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated Exclusive Commercialization Patent License should be directed to: Surekha Vathyam, Ph.D., Senior Licensing and Patenting Manager, NCI Technology Transfer Center, 9609 Medical Center Drive, RM 1E530 MSC 9702, Bethesda, MD 20892–9702 (for business mail), Rockville, MD 20850–9702; Telephone: (240) 276–5530; Facsimile: (240) 276–5504; Email: *vathyams@mail.nih.gov.*

SUPPLEMENTARY INFORMATION:

Intellectual Property

United States Provisional Patent Application No. 62/244,594, filed October 21, 2015 and entitled “Codon-optimized Reduced-size ATP7A cDNA and Uses for Treatment of Copper Transport Disorders” [HHS Reference No. E–062–2015/0–US–01].

The patent rights in these inventions have been assigned and/or exclusively licensed to the government of the United States of America.

The prospective exclusive license territory may be worldwide and the field of use may be limited to the use of Licensed Patent Rights for the following: “Development and commercialization of adeno-associated virus-based vectors for the treatment of Menkes Disease and related copper transport disorders.”

This technology discloses a codon-optimized reduced-size Adenosine Triphosphate 7A (ATP7-alpha or ATP7A) cDNA, vectors, and recombinant adeno-associated viruses (AAVs) and uses thereof for treatment of copper transport disorders. Such uses, include the administration of copper in addition to ATP7A in order to maximize the advantage of the gene therapy.

Human P-type ATPase copper-transporting ATPase 1 (ATP7A) transports copper from enterocytes (where it is taken up from dietary copper) into the blood. ATP7A also mediates passage of copper across the blood-cerebrospinal fluid barrier and the blood-brain barrier. In Menkes disease and occipital horn syndrome (OHS), ATP7A activity is reduced or absent and copper export from the enterocytes is impaired. As a result, copper accumulates in intestinal cells and less copper is delivered to the blood, resulting in restricted copper supply to other tissues, particularly the brain. If successfully developed, this invention would be a first of its kind therapy for treating copper transport disorders, such as Menkes disease, OHS, or ATP7A-related distal motor neuropathy, by administering the disclosed nucleic acid, vector, or recombinant virus to a subject with a copper transport disorder.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective Exclusive Commercialization Patent License will be royalty bearing and may be granted unless within fifteen (15) days from the date of this published notice, the National Cancer Institute receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Complete applications for a license in the prospective field of use that are filed in response to this notice will be treated as objections to the grant of the contemplated Exclusive Commercialization Patent License Agreement. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the *Freedom of Information Act,* 5 U.S.C. 552.

Dated: September 21, 2016.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2016–23134 Filed 9–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Start-Up Exclusive Evaluation Patent License: Development of Autologous Tumor-reactive T Cells Isolated From Peripheral Blood for the Treatment of Metastatic Follicular Thyroid Cancer and Metastatic Soft Tissue Sarcomas

AGENCY: National Institutes of Health.

ACTION: Notice.

SUMMARY: The National Cancer Institute, National Institutes of Health, Department of Health and Human Services, is contemplating the grant of a Start-up Exclusive Evaluation Patent License to MedGene Therapeutics, Inc. (“MedGene”) located in Bethesda, MD to practice the inventions embodied in the patent applications listed Supplementary Information section of this notice.

DATES: Only written comments and/or applications for a license which are received by the NCI Technology Transfer Center on or before October 11, 2016 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, and comments relating to the contemplated Start-up Exclusive Evaluation Patent License should be directed to: Andrew Burke, Ph.D., Licensing and Patenting Manager, NCI Technology Transfer Center, 9609 Medical Center Drive, RM 1E530 MSC 9702, Bethesda, MD 20892–9702 (for business mail), Rockville, MD 20850–9702 Telephone: (240) 276–5530; Facsimile: (240) 276–5504; Email: *andy.burke@nih.gov.*

SUPPLEMENTARY INFORMATION: United States Provisional Patent Application No. 61/771,251 filed March 1, 2013, entitled “Methods of Producing Enriched Populations of Tumor Reactive T Cells from Peripheral Blood” [HHS Reference No. E–085–2013/0–US–01]; and PCT Application No. PCT/US2013/038813 filed April 30, 2013 entitled “Methods of Producing Enriched Populations of Tumor Reactive T Cells from Peripheral Blood” [HHS Reference No. E–085–2013/0–PCT–02] (and U.S. and foreign patent applications claiming priority to the aforementioned applications).

The patent rights in these inventions have been assigned to the government of the United States of America.

The prospective Start-up Exclusive Evaluation Patent License territory may be worldwide and the field of use may be limited to the development, manufacture and commercialization of autologous tumor-reactive peripheral blood T cell therapy products as set forth in the Licensed Patent Rights for the treatment of metastatic follicular thyroid cancer and metastatic soft tissue sarcomas in humans.

The present invention describes a method of selecting highly tumor-reactive T cells from autologous peripheral blood samples based on the expression of two specific T cell surface markers: Programmed cell death protein 1 (PD–1; CD279) and/or T cell Ig- and mucin-domain-containing molecule-3 (TIM–3). Following selection, isolated cells may be expanded and reinfused into the donor patient as part of an adoptive cell transfer therapeutic regimen. The disclosed method may be advantageous over existing approaches which rely on the isolation of T cells from tumor samples since it eliminates the cost and complications associated with tumor resection, as well as provides a T cell product for patients without resectable lesions.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective Start-up Exclusive Evaluation Patent License will be royalty bearing and the may be granted unless within fifteen (15) days from the date of this published notice, the National Cancer Institute receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Complete applications for a license in the prospective field of use that are timely filed in response to this notice will be treated as objections to the grant of the contemplated Start-up Exclusive Evaluation Patent License. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the *Freedom of Information Act,* 5 U.S.C. 552.

Dated: September 20, 2016.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2016–23048 Filed 9–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of an Interagency Pain Research Coordinating Committee (IPRCC) meeting.

The meeting will feature invited speakers and discussions of committee business items including a progress report on implementation of the National Pain Strategy, updates on the Federal Pain Research Strategy and new pain initiatives.

The meeting will be open to the public and accessible by live webcast and conference call.

Name of Committee: Interagency Pain Research Coordinating Committee.

Type of meeting: Open Meeting.

Date: October 31, 2016.

Time: 8:30 a.m. to 5:00 p.m. *Eastern Time*—Approximate end time.

Agenda: The meeting will feature invited speakers and discussions of Committee business items including a progress report on implementation of the National Pain Strategy, updates on the Federal Pain Research Strategy and new pain initiatives.

Place: National Institutes of Health, Building 31C, 6th Floor, Room 10, 31 Center Drive, Bethesda, MD 20892.

Cost: The meeting is free and open to the public.

Webcast Live: http://videocast.nih.gov/.

Deadlines: Notification of intent to present oral comments: Monday, October 17, 2016, by 5:00 p.m. ET.

Submission of written/electronic statement for oral comments: Monday, October 24, 2016, by 5:00 p.m. ET.

Submission of written comments: Monday, October 24, 2016, by 5:00 p.m. ET.

Access: Medical Center Metro (Red Line). Visitor Information: *http://www.nih.gov/about/visitor/index.htm.*

Contact Person: Linda L. Porter, Ph.D., Pain Policy Advisor, Office of Pain Policy, Officer of the Director, National Institute of Neurological Disorders and Stroke, NIH, 31 Center Drive, Room 8A31, Bethesda, MD 20892, Phone: (301) 451–4460, Email: *Linda.Porter@nih.gov.*

Please Note:

Any member of the public interested in presenting oral comments to the Committee must notify the Contact Person listed on this notice by 5:00 p.m. ET on Monday, October 17, 2016, with their request to present oral comments at the meeting. Interested individuals and representatives of organizations must submit a written/electronic copy of the oral statement/comments including a brief description of the organization represented by 5:00 p.m. ET on Thursday, October 24, 2016.

Statements submitted will become a part of the public record. Only one representative of an organization will be allowed to present oral comments on behalf of that organization, and presentations will be limited to three to five minutes per speaker, depending on number of speakers to be accommodated within the allotted time. Speakers will be assigned a time to speak in the order of the date and time when their request to speak is received, along with the required submission of the written/electronic statement by the specified deadline. If special accommodations are needed, please email the Contact Person listed above.

In addition, any interested person may submit written comments to the IPRCC prior to the meeting by sending the comments to the Contact Person listed on this notice by 5:00 p.m. ET, Monday, October 24, 2016. The comments should include the name and, when applicable, the business or professional affiliation of the interested person. All written comments received by the deadlines for both oral and written public comments will be provided to the IPRCC for their consideration and will become part of the public record.

The meeting will be open to the public and webcast live on the Internet. If you experience any technical problems with the webcast, please call the NIH IT Service Desk at (301) 496–4357, toll free (866) 319–4357, for webcast issues.

Individuals who participate in person or by using the wed service and who need special assistance, such as captioning, should submit a request to the Contact Person listed on this notice at least seven days prior to the meeting.

As a part of security procedures, attendees should be prepared to present a photo ID during the security process to get on the NIH campus. For a full description, please see: *http://www.nih.gov/about/visitorsecurity.htm.*

Information about the IPRCC is available on the Web site: *http://iprcc.nih.gov/.*

Dated: September 20, 2016.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–23143 Filed 9–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2010–0164]

National Boating Safety Advisory Council

AGENCY: Coast Guard, DHS.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The National Boating Safety Advisory Council and its Subcommittees will meet on October 20, 21 and 22, 2016, in Arlington, VA, to discuss issues relating to recreational boating safety. These meetings will be open to the public.

DATES: The National Boating Safety Advisory Council will meet on Thursday, October 20, 2016, from 8:00 a.m. to 2:30 p.m. and on Saturday, October 22, 2016 from 9:00 a.m. to 12:00 p.m. The Boats and Associated Equipment Subcommittee will meet on October 20, 2016, from 2:45 p.m. to 5:00 p.m. The Prevention through People Subcommittee will meet on October 21, 2016, from 8:30 a.m. to 11:45 a.m. The Recreational Boating Safety Strategic Planning Subcommittee will meet on October 21, 2016, from 1:00 p.m. to 5:00 p.m. Please note that these meetings may conclude early if the National Boating Safety Advisory Council has completed all business.

ADDRESSES: All meetings will be held in the Ballroom of the Holiday Inn Arlington (*http://www.hiarlington.com*), 4610 N Fairfax Drive, Arlington, VA 22203.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section below as soon as possible.

Instructions: To facilitate public participation, we are inviting public comment on the issues to be considered by the Council as listed in the "Agenda" section below. Written comments for distribution to Council members must be submitted no later than October 1, 2016, if Council review is desired prior to the meeting. You must include "Department of Homeland Security" and the docket number USCG–2010–0164. Written comments may also be submitted using the Federal eRulemaking Portal at *http://www.regulations.gov.* For technical difficulties, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section below. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Docket Search: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov* insert USCG–2010–0164 in the "Search" box, press Enter, then click the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Ludwig, Alternate Designated Federal Officer of the National Boating Safety Advisory Council, telephone (202) 372–1061, or at *jeffrey.a.ludwig@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act* (Title 5, U.S.C., Appendix). Congress established the National Boating Safety Advisory Council in the *Federal Boat Safety Act of 1971* (Pub. L. 92–75). The National Boating Safety Advisory Council currently operates under the authority of 46 U.S.C. 13110 and 46 U.S.C. 4302(c). The latter requires the Secretary of Homeland Security and the Commandant of the Coast Guard by delegation to consult with the National Boating Safety Advisory Council in prescribing regulations for recreational vessels and associated equipment and on other major safety matters.

Meeting Agenda

The agenda for the National Boating Safety Advisory Council meeting is as follows:

Thursday, October 20, 2016

(1) Opening remarks and presentation of awards to outgoing members.

(2) Receipt and discussion of the following reports:

(a) Chief, Office of Auxiliary and Boating Safety, Update on the Coast Guard's implementation of National Boating Safety Advisory Council Resolutions and Recreational Boating Safety Program report.

(b) Alternate Designated Federal Officer's report concerning Council administrative and logistical matters.

(3) Presentations on the following:

(a) Distracted Driving.

(b) Human Performance in Investigations.

(c) Human Factors Analysis and Classification System.

(4) Subcommittee Session: Boats and Associated Equipment Subcommittee.

Issues to be discussed include alternatives to pyrotechnic visual distress signals; grant projects related to boats and associated equipment; and updates to 33 CFR 181 "Manufacturer Requirements" and 33 CFR 183 "Boats and Associated Equipment."

(5) Public comment period.

(6) Meeting Recess.

Friday, October 21, 2016

The day will be dedicated to Subcommittee sessions:

(1) *Prevention Through People Subcommittee.*

Issues to be discussed include paddlesports participation, overview of State boating Safety programs, and licensing requirements for on-water boating safety instruction providers.

(2) *Recreational Boating Safety Strategic Planning Subcommittee.*

Issues to be discussed include progress on implementation of the 2012–2016 Strategic Plan, and development of the 2017–2021 Strategic Plan.

Saturday, October 22, 2016

The full Council will resume meeting.

(1) Receipt and Discussion of the Boats and Associated Equipment, Prevention through People and The Recreational Boating Safety Strategic Planning Subcommittee reports.

(2) Discussion of any recommendations to be made to the Coast Guard.

(3) Public comment period.

(4) Voting on any recommendations to be made to the Coast Guard.

(5) Adjournment of meeting.

There will be a comment period for the National Boating Safety Advisory Council members and a comment period for the public after each report presentation, but before each is voted on by the Council. The Council members will review the information presented on each issue, deliberate on any recommendations presented in the Subcommittees' reports, and formulate recommendations for the Department's consideration.

The meeting agenda and all meeting documentation can be found at: *http://homeport.uscg.mil/NBSAC.* Alternatively, you may contact Mr. Jeff Ludwig as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

Public comments or questions will be taken throughout the meeting as the Council discusses the issues and prior to deliberations and voting. There will also be a public comment period at the end of the meeting. Speakers are requested to limit their comments to 3 minutes. Please note that the public comment period may end before the period allotted, following the call for comments. Contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above to register as a speaker.

Dated: September 20, 2016.

Verne B. Gifford, Jr.,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2016–23110 Filed 9–23–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[Docket No. USCBP–2016–0052]

The U.S. Customs and Border Protection User Fee Advisory Committee (UFAC)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security (DHS).

ACTION: Committee Management; Notice of Federal Advisory Committee Public Meeting.

SUMMARY: The U.S. Customs and Border Protection User Fee Advisory Committee (UFAC) will meet on Wednesday, October 19, 2016, in Miami, FL. The meeting will be open to the public.

DATES: The UFAC will meet on Wednesday, October 19, 2016, from 1:00 p.m. to 3:00 p.m. EDT. Please note that the meeting is scheduled for two hours and that the meeting may close early if the committee completes its business.

Pre-Registration: Meeting participants may attend either in person or via webinar after pre-registering using a method indicated below:

—For members of the public who plan to attend the meeting in person, please register either online at *https://apps.cbp.gov/te_reg/index.asp?w=88,* by email to *tradeevents@dhs.gov,* or by fax to (202) 325–4290 by 5:00 p.m. EDT on October 17, 2016.

—For members of the public who plan to participate via webinar, please register online at *https://apps.cbp.gov/te_reg/index.asp?w=89* by 5:00 p.m. EDT on October 17, 2016.

Please feel free to share this information with other interested members of your organization or association.

Members of the public who are pre-registered and later require cancellation, please do so in advance of the meeting by accessing one (1) of the following links: *https://apps.cbp.gov/te_reg/cancel.asp?w=88* to cancel an in-person registration, or *https://apps.cbp.gov/te_reg/cancel.asp?w=89* to cancel a webinar registration.

ADDRESSES: The meeting will be held at the Pullman Miami Hotel, 5800 Blue Lagoon Drive, Paris Ballroom, Miami, FL 33126. There will be signage posted directing visitors to the location of the conference room.

For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, contact Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection at (202) 344–1661 as soon as possible.

To facilitate public participation, we are inviting public comment on the topics to be discussed by the committee, prior to the meeting as listed in the "Agenda" section below.

Comments must be submitted in writing no later than October 14, 2016, and must be identified by Docket No. USCBP–2016–0052, and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: Tradeevents@dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* (202) 325–4290.
- *Mail:* Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.5A, Washington, DC 20229.

Instructions: All submissions received must include the words "Department of Homeland Security" and the docket number (USCBP–2016–0052) for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. Do not submit personal information to this docket.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and search for Docket Number USCBP–2016–0052. To submit a comment, click the "Comment Now!" button located on the top-right hand side of the docket page.

There will be two (2) public comment periods held during the meeting on October 19, 2016. Speakers are requested to limit their comments to two (2) minutes or less to facilitate greater participation. Contact the individual listed below to register as a speaker. Please note that the public comment periods for speakers may end before the times indicated on the schedule that is posted on the CBP Web page, *http://www.cbp.gov/trade/stakeholder-engagement/user-fee-advisory-committee.*

FOR FURTHER INFORMATION CONTACT: Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.5A, Washington, DC 20229; telephone (202) 344–1440; facsimile (202) 325–4290.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (5 U.S.C. Appendix), the Department of Homeland Security (DHS) hereby announces the meeting of the U.S. Customs and Border Protection User Fee Advisory Committee (UFAC). The UFAC is tasked with providing advice to the Secretary of Homeland Security (DHS) through the Commissioner of U.S. Customs and Border Protection (CBP) on matters related to the performance of inspections coinciding with the assessment of an agriculture, customs, or immigration user fee.

Agenda

1. The Financial Assessment and Options Subcommittee will review and discuss the work that has been completed, so that the UFAC can deliberate upon and, if appropriate, vote on recommendations.
2. Public Comment Period.
3. The Process Improvements Subcommittee will review and discuss the work that has been completed, so that the UFAC can deliberate upon and, if appropriate, vote on recommendations.
4. Public Comment Period.

Dated: September 21, 2016.

Maria Luisa Boyce,

Senior Advisor for Private Sector Engagement, Office of Trade Relations, U.S. Customs and Border Protection.

[FR Doc. 2016–23163 Filed 9–23–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2016–0023; OMB No. 1660–0125]

Agency Information Collection Activities: Proposed Collection; Comment Request; FEMA Preparedness Grants: Homeland Security Grant Program (HSGP)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the Homeland Security Grant Program (HSGP).

DATES: Comments must be submitted on or before November 25, 2016.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2016–0023. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., 8NE, Washington, DC 20472–3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Paul Belkin, Branch Chief, FEMA, Grant Programs Directorate, 202–786–9771. You may contact the Records Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: FEMA's Homeland Security Grant Program (HSGP) supports State and local efforts to prevent terrorism and other catastrophic events and to prepare the Nation for the threats and hazards that pose the greatest risk to the security of the United States. The HSGP provides funding to implement investments that build, sustain, and deliver the 31 core capabilities essential to achieving the National Preparedness Goal (the Goal) of a secure and resilient Nation. The building, sustainment, and delivery of these core capabilities are not exclusive to any single level of government, organization, or community, but rather, require the combined effort of the whole community. The HSGP supports core capabilities across the five mission areas of Prevention, Protection, Mitigation, Response, and Recovery based on allowable costs. HSGP is comprised of three grant programs: State Homeland Security Program (SHSP), Urban Area Security Initiative (UASI), and Operation Stonegarden (OPSG). Together, these grant programs fund a range of activities, including planning, organization, equipment purchase, training, exercises, and management and administration across all core capabilities and mission areas. The authorizing authority of the HSGP is Section 2002 of the Homeland Security Act of 2002, as amended (Pub. L. 107–296), (6 U.S.C. 603).

Collection of Information

Title: FEMA Preparedness Grants: Homeland Security Grant Program (HSGP).

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0125.

FEMA Forms: FEMA Form 089–1, HSGP Investment Justification (SHSP and UASI); FEMA Form 089–16, OPSG Operations Order Report; FEMA Form 089–20, OPSG Inventory of Operation Orders; FEMA Form 089–0–27, Operation Stonegarden Daily Activity Report (DAR).

Abstract: The HSGP is an important tool among a comprehensive set of measures to help strengthen the Nation against risks associated with potential terrorist attacks. DHS/FEMA uses the information to evaluate applicants' familiarity with the national preparedness architecture and identify how elements of this architecture have been incorporated into regional/State/local planning, operations, and investments.

The HSGP is a primary funding mechanism for building and sustaining national preparedness capabilities. The HSGP is comprised of three separate grant programs: The SHSP, the UASI, and OPSG. Together, these grants fund a range of preparedness activities, including planning, organization, equipment purchase, training, exercises, and management and administration costs. The OPSG will begin to utilize the Office of Management and Budget's web-based portal MAX.GOV, at *https://www.MAX.GOV/,* for operational management of the grant program. The HSGP now requires applicants to submit the SAFECOM Compliance Letter, which has been added to this collection. The compliance letter certifies that the applicant will comply with SAFECOM Guidance when implementing interoperable communications projects. The letter will be attached in the Non-Disaster Grants Management System as part of the HSGP application.

Affected Public: State, Local or Tribal Government.

Number of Respondents: 664.

Number of Responses: 53,920.

Estimated Total Annual Burden Hours: 269,579 hours.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $16,587,196. There are no annual costs to respondents' operations and maintenance costs for technical services. There are no annual start-up or capital costs. The cost to the Federal Government is $2,022,270.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Dated: September 21, 2016.

Richard W. Mattison,

Records Management Program Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2016–23191 Filed 9–23–16; 8:45 am]

BILLING CODE 9111–19–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2016–0057]

Critical Infrastructure Partnership Advisory Council

AGENCY: Department of Homeland Security.

ACTION: Notice of Critical Infrastructure Partnership Advisory Council meeting.

SUMMARY: The Critical Infrastructure Partnership Advisory Council (CIPAC) will meet Tuesday, October 18, 2016, at the Crystal Gateway Marriott, Arlington Ballroom, Salon IV, 1700 Jefferson Davis Highway, Arlington, VA 22202. This meeting will be open to the public.

DATES: The CIPAC Plenary will meet on October 18, 2016. The meeting will be held from 10:30 a.m.–5:00 p.m. EDT. The meeting may adjourn early if the committee has completed its business. For additional information about CIPAC, please consult the CIPAC Web site, *www.dhs.gov/cipac,* or contact the CIPAC Executive Secretariat by phone at 703–603–5087 or by email at *CIPAC@hq.dhs.gov.*

ADDRESSES: 1700 Jefferson Davis Highway, Arlington, VA 22202.

While this meeting is open to the public, participation in the CIPAC deliberations is limited to committee members, Department of Homeland Security officials, and persons invited to attend the meeting for special presentations.

Immediately following the council member panel discussion period, there will be a limited time period for public comment on only the agenda items as listed in the **SUPPLEMENTARY INFORMATION** section below. Relevant public comments may be submitted in writing or presented in person for the Council to consider. Be advised that off-topic questions or comments will not be permitted or discussed. In-person presentations will be limited to three minutes per speaker, with no more than 15 minutes for all speakers. Parties interested in presenting in person must register no less than 15 minutes prior to the beginning of the meeting, at the meeting location. Oral presentations will be permitted based upon the order of registration; all registrants may not be able to speak if time does not permit.

Written comments may be sent to Renee Murphy, CIPAC Designated Federal Officer, Department of Homeland Security, National Protection and Programs Directorate, 245 Murray Lane SW., Mail Stop 0607, Arlington, VA 20598–0607. Written comments must be received by Renee Murphy by no later than 5:00 p.m. EDT, October 17, 2016, identified by **Federal Register** Docket Number DHS–2016–0057 and may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting written comments.
- *Email: CIPAC@hq.dhs.gov.* Include docket number DHS–2016–0057 in the subject line of the message.
- *Fax:* 703–603–5190.
- *Mail:* Renee Murphy, Department of Homeland Security, National Protection and Programs Directorate, 245 Murray Lane SW., Mail Stop 0607, Arlington, VA 20598–0607.

Instructions: All written submissions received must include the words "Department of Homeland Security" and the docket number for this action. Written comments received will be posted without alteration at *www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read comments received by the CIPAC, go to *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Cheryl Fenoli, Department of Homeland Security, National Protection and Programs Directorate, Office of Infrastructure Protection, Sector Outreach and Programs Division, Partnership Coordination Section, 245 Murray Lane SW., Mail Stop 0607, Arlington, VA 20598–0607, telephone 703–603–5087 or via email at *CIPAC@HQ.DHS.GOV.*

SUPPLEMENTARY INFORMATION: The CIPAC Plenary convenes the critical infrastructure owner and operator members of the Sector Coordinating Councils, including their representative trade associations and Federal, State, local, tribal and territorial governmental entities comprising the members of the Government Coordinating Council, including their representative organizations for all sixteen (16) sectors, members of the State, Local, Tribal and Territorial Government Coordinating Council, Regional Consortium Coordinating Council, Critical Infrastructure Cross-Sector Council and representatives of other Federal agencies to include the Federal Senior Leadership Council with responsibility for critical infrastructure activities.

The October 18, 2016 meeting will include council updates and panel discussions between participating members regarding issues relevant to critical infrastructure security and resilience.

Public Meeting Agenda

I. Call to Order/Opening Remarks

II. CIPAC Open/Roll Call of Members
III. Welcome
IV. Joint National Priorities for Critical Infrastructure Security and Resilience Panel Discussion:
  a. Strengthen the Management of Cyber and Physical Risks to Critical Infrastructure Security and Resilience
V. Lunch
VI. Joint National Priorities Panel Discussions(continued)
  b. Build Capabilities and Coordination for Enhanced Incident Response and Recovery
  c. Strengthen Collaboration Across Sectors, Jurisdictions and Disciplines
  d. Enhance Effectiveness in Resilience Decision Making
  e. Share Information to Improve Prevention, Protection, Mitigation, Response and Recovery Activities
VII. Public Comment Period
VIII. The Way Forward
IX. Adjournment

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the CIPAC Executive Secretariat at 703–603–5087 as soon as possible.

Dated: September 20, 2016.

Renee Murphy,

Designated Federal Officer for the CIPAC.

[FR Doc. 2016–23015 Filed 9–23–16; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0026]

Agency Information Collection Activities: Immigrant Petition by Alien Entrepreneur, Form I–526; Revision of a Currently Approved Collection

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on July 11, 2016, at 81 FR 44890, allowing for a 60-day public comment period. USCIS received comments in connection with the 60-day notice.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until October 26, 2016. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov.* Comments may also be submitted via fax at (202) 395–5806. All submissions received must include the agency name and the OMB Control Number 1615–0026.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number (202) 272–8377 (comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0021 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Immigrant Petition by Alien Entrepreneur.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–526; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–526 is used by the USCIS to determine if an alien can enter the U.S. to engage in commercial enterprise.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form I–526 is 11,939 and the estimated hour burden per response is 1 hour and 50 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 21,848 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* There is an estimated annual cost burden of $13,132,900 associated with this collection of information.

Dated: September 20, 2016.

Samantha Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2016–23064 Filed 9–23–16; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

[CIS No. 2589–16; DHS Docket No. USCIS–2014–0009]

RIN 1615–ZB57

Six-Month Extension of Temporary Protected Status Benefits for Orderly Transition Before Termination of Sierra Leone's Designation for Temporary Protected Status

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice.

SUMMARY: The designation of Sierra Leone for Temporary Protected Status (TPS) is set to expire on November 21, 2016. After reviewing relevant country conditions and consulting with the appropriate U.S. Government (Government) agencies, the Secretary of Homeland Security (Secretary) has determined that conditions in Sierra Leone no longer support its designation for TPS and is therefore extending TPS benefits for 6 months for the purpose of orderly transition before the TPS designation of Sierra Leone terminates. This termination will be effective May 21, 2017, 6 months following the end of the current designation.

To provide for an orderly transition, nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) who have been granted TPS under the Sierra Leone designation will automatically retain their TPS and have their current TPS-based Employment Authorization Documents (EAD) extended through May 20, 2017. However, an individual's TPS may still be withdrawn because of ineligibility for TPS. On May 21, 2017, nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) who have been granted TPS under the Sierra Leone designation will no longer have TPS.

DATES: The designation of Sierra Leone for TPS is terminated effective at 12:01 a.m., local time, on May 21, 2017.

FOR FURTHER INFORMATION CONTACT:

- For further information on TPS, please visit the U.S. Citizenship and Immigration Services (USCIS) TPS Web page at *http://www.uscis.gov/tps.* You can find specific information about the termination of Sierra Leone's TPS designation by selecting "Sierra Leone" from the menu on the left side of the TPS Web page.
- You can also contact Jerry Rigdon, Chief of the Waivers and Temporary Services Branch, Service Center Operations Directorate, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW., Washington, DC 20529–2060; or by phone at 202–272–1533 (this is not a toll-free number). **Note:** The phone number provided here is solely for questions regarding this TPS Notice. It is not for individual case status inquires.
- Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).
- Further information will also be available at local USCIS offices upon publication of this Notice.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

DHS—Department of Homeland Security
DOS—Department of State
EAD—Employment Authorization Document
EVD—Ebola Virus Disease
FNC—Final Nonconfirmation
Government—U.S. Government
INA—Immigration and Nationality Act
OSC—Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices
SAVE—USCIS Systematic Alien Verification for Entitlements Program
Secretary—Secretary of Homeland Security
TNC—Tentative Nonconfirmation
TPS—Temporary Protected Status
TTY—Text Telephone
USCIS—U.S. Citizenship and Immigration Services
WHO—World Health Organization

What is Temporary Protected Status (TPS)?

- TPS is a temporary immigration status granted to eligible nationals of a country designated for TPS under the Immigration and Nationality Act (INA), or to eligible persons without nationality who last habitually resided in the designated country.
- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States, may not be removed, and are authorized to work and obtain EADs so long as they continue to meet the requirements of TPS.
- TPS beneficiaries may also be granted travel authorization as a matter of discretion.
- The granting of TPS does not result in or lead to permanent resident status.
- To qualify for TPS, beneficiaries must meet the eligibility criteria described in INA section 244(c), 8 U.S.C. 1254a(c) and 8 CFR part 244.
- When the Secretary terminates a country's TPS designation, beneficiaries return to the same immigration status they maintained before TPS, if any (unless that status has since expired or been terminated), or to any other immigration status they lawfully obtained while registered for TPS.

When was Sierra Leone designated for TPS?

On November 21, 2014, the Secretary designated Sierra Leone for TPS for a period of 18 months due to the extraordinary and temporary conditions caused by an epidemic of Ebola Virus Disease (EVD) in West Africa that prevented nationals of Sierra Leone from returning to Sierra Leone in safety. The conditions included high EVD transmission rates in wide-spread geographic areas, overwhelmed health care systems unable to handle the large number of EVD patients or to provide treatment for normally preventable or treatable conditions, and containment measures that were causing significant disruptions to Sierra Leone's economy and individuals' ability to access food and earn a livelihood. *See Designation of Sierra Leone for Temporary Protected Status,* 79 FR 69506 (Nov. 21, 2014). The Secretary last announced a 6-month extension of TPS for Sierra Leone on March 22, 2016, based on his determination that although there were significant improvements, conditions supporting the designation persisted. *See Extension of the Designation of Sierra Leone for Temporary Protected Status,* 81 FR 15334 (Mar. 22, 2016).

What authority does the Secretary have to terminate the designation of Sierra Leone for TPS?

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate Government agencies, to designate a foreign state (or part thereof) for TPS if the Secretary determines that certain country conditions exist.[1] The Secretary may then grant TPS to eligible nationals of that foreign state (or eligible aliens having no nationality who last habitually resided in the designated country). *See* INA section 244(a)(1)(A), 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of a country's TPS designation or extension, the Secretary, after consultation with appropriate

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[1] As of March 1, 2003, in accordance with section 1517 of title XV of the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, any reference to the Attorney General in a provision of the INA describing functions transferred from the Department of Justice to the Department of Homeland Security (DHS) "shall be deemed to refer to the Secretary" of Homeland Security. *See* 6 U.S.C. 557 (codifying the Homeland Security Act of 2002, tit. XV, section 1517).

Government agencies, must review the conditions in a foreign state designated for TPS to determine whether the conditions for the TPS designation continue to be met. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). If the Secretary determines that a foreign state continues to meet the conditions for TPS designation, the designation may be extended for an additional period of 6, 12, or 18 months. *See* INA section 244(b)(3)(C), 8 U.S.C. 1254a(b)(3)(C). If the Secretary determines that the foreign state no longer meets the conditions for TPS designation, the Secretary must terminate the designation, but such termination may not take effect earlier than 60 days after the date the **Federal Register** notice of termination is published, or if later, the expiration of the most recent previous extension of the country designation. *See* INA section 244(b)(3)(B), 8 U.S.C. 1254a(b)(3)(B). The Secretary may determine the appropriate effective date of the termination and the expiration of any TPS-related documentation, such as EADs, for the purpose of providing an orderly transition. *See id.;* INA section 244(d)(3), 8 U.S.C. 1254a(d)(3).

Why is the Secretary terminating the designation of Sierra Leone for TPS as of May 21, 2017, after a 6-month extension of TPS benefits for the purpose of orderly transition?

DHS and the Department of State (DOS) have reviewed conditions in Sierra Leone. Based on the reviews and after consulting with DOS, the Secretary has determined that the termination of the TPS designation of Sierra Leone, after a 6-month extension of TPS benefits for orderly transition, is required because the extraordinary and temporary conditions that prompted Sierra Leone's designation for TPS have substantially resolved and no longer prevent nationals of Sierra Leone from returning in safety.

Guinea, Liberia, and Sierra Leone were designated for TPS in the midst of the largest EVD outbreak in history. From March 2014 through November 2015, these three countries suffered over 11,000 deaths among their more than 28,500 cases of EVD. At the height of the outbreak in late 2014, Ebola was spreading rapidly, with hundreds of new cases being reported each week, the health care systems overwhelmed, and containment measures causing significant disruptions to individuals' ability to access food and earn a livelihood. While the impacts of the epidemic pose a lasting challenge to Sierra Leone's economy and the capacity of its health system to provide treatment for preventable or treatable conditions, at this time, the EVD epidemic has subsided, and conditions have improved since the Secretary initially designated Sierra Leone for TPS.

A robust response by the international community and the governments of Guinea, Liberia, and Sierra Leone has brought the EVD epidemic in West Africa under control and begun the long-term work of rebuilding regional economies and health systems. In Sierra Leone, the EVD epidemic started in May 2014 and peaked between October and December 2014. Sierra Leone's government and international partners mounted an effective response that dramatically decreased the number of new EVD cases from a high of 500 per week in late 2014 to between 8 to 12 cases in June 2015, to single digits in August 2015. After a small cluster (2 cases) of EVD in January 2016, the World Health Organization (WHO) declared Sierra Leone free of EVD transmission as of March 17, 2016. As of June 2016, Guinea, Liberia, and Sierra Leone were all free of EVD transmission. While the risk of flare-ups of EVD remains, efforts are underway to promote, over time, robust prevention, surveillance, and response capacity across all three countries.

In Sierra Leone, donors and the Sierra Leone government are closing down most of their EVD-specific facilities and transitioning relevant equipment to other health care needs. The Sierra Leone government and international partners continue to monitor infection control and prevention measures at hospitals. Schools are open and business hours have been extended to help jump-start economic activity. The U.S. Department of Health and Human Services, Centers for Disease Control and Prevention has no Ebola-related Travel Health Notice in place for Sierra Leone as of the date of this Notice.

While health systems and facilities remain fragile, medical centers are no longer overwhelmed by patients with EVD. High rates of child mortality both before and since the EVD epidemic are indicative of the overall fragility of the health system. Although this is comparable to other countries in the region, systems in Sierra Leone must also be able to address ongoing issues of trust between healthcare facilities and communities, as well as continue to care for Ebola survivors who have a series of ongoing and previously unforeseen health conditions, both of which will continue to exacerbate and underscore the fragility of these systems. Normal business activity and national life have largely resumed, although work is ongoing to rebuild Sierra Leone's economy and health care system. On March 29, 2016, the WHO Director-General declared the end of the Public Health Emergency of International Concern regarding the EVD outbreak in West Africa. In conjunction with ending the public health emergency, the WHO emphasized there should be no restrictions on travel and trade with Guinea, Liberia, and Sierra Leone.

Based upon this review and after consultation with appropriate Government agencies, the Secretary has determined that Sierra Leone no longer continues to meet the statutorily required conditions for a TPS designation on the basis of extraordinary and temporary conditions, because the extraordinary and temporary conditions that prompted Sierra Leone's TPS designation have substantially resolved and no longer prevent nationals of Sierra Leone from returning to Sierra Leone in safety. Therefore, after a 6-month extension of TPS benefits for orderly transition, the Secretary is terminating the TPS designation of Sierra Leone effective at 12:01 a.m., local time, on May 21, 2017. *See* INA section 244(b)(3)(B), 8 U.S.C. 1254a(b)(3)(B).

To provide for an orderly transition, individuals who have been granted TPS under Sierra Leone's designation will automatically retain TPS and have their current EADs extended until the termination date. *See* INA section 244(d)(3), 8 U.S.C. 1254a(d)(3). DHS may, however, withdraw TPS from any beneficiary who fails to continue meeting the requirements for TPS. *See* INA section 244(c)(3), 8 U.S.C. 1254a(c)(3). There are approximately 1,180 current Sierra Leone TPS beneficiaries. These persons are urged to use the time before termination of their TPS to prepare for and arrange their departure from the United States or, in the alternative, to apply for other immigration benefits for which they are eligible.

Notice of Six-Month Extension of TPS Benefits for Orderly Transition Before Termination of the TPS Designation of Sierra Leone

By the authority vested in me as Secretary under INA section 244, 8 U.S.C. 1254a, I have determined, after consultation with the appropriate Government agencies, that Sierra Leone no longer meets the conditions for designation of TPS under 244(b)(1) of the Act. 8 U.S.C. 1254a(b)(1).

Accordingly, I order as follows:

(1) Pursuant to INA section 244(b)(3)(B), the designation of Sierra Leone for TPS is terminated effective at

12:01 a.m., local time, on May 21, 2017, 6 months following the end of the current designation.

(2) DHS estimates that there are approximately 1,180 nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) who currently receive TPS benefits.

(3) To provide for an orderly transition, nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) who have been granted TPS under the Sierra Leone designation will automatically retain TPS until the May 21, 2017 termination date. However, an individual's TPS may still be withdrawn before this date pursuant to INA section 244(c)(3) and 8 CFR 244.14 because of ineligibility for TPS.

(4) TPS-related EADs that expire on November 21, 2016, are extended automatically through May 20, 2017, for qualified nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone).

(5) Information concerning the termination of TPS for nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) will be available at local USCIS offices upon publication of this Notice and through the USCIS National Customer Service Center at 1–800–375–5283. This information will be published on the USCIS Web site at *www.USCIS.gov.*

Jeh Charles Johnson,

Secretary.

If I currently have TPS under Sierra Leone's designation, do I need to re-register to keep my TPS until May 21, 2017, the termination date?

No. If you already have been granted TPS benefits through the Sierra Leone TPS program, you do not have to re-register to keep your TPS benefits. You will automatically retain TPS until the termination date. However, your TPS may still be withdrawn under INA section 244(c)(3) and 8 CFR part 244 because of ineligibility for TPS. 8 U.S.C. 1254a(c)(3), 8 CFR 244.14. When termination becomes effective on May 21, 2017, you will no longer have TPS.

Why is the Secretary automatically extending the validity of EADs from November 21, 2016, through May 20, 2017?

The Secretary has decided to extend automatically the validity of EADs to provide for an orderly transition leading up to the effective date for the termination of the Sierra Leone TPS designation. Therefore, the validity of the applicable EADs is extended for a period of 6 months, through May 20, 2017. 8 U.S.C. 1254a(a)(2) and (d)(3).

Must qualified individuals apply for the automatic extension of their TPS-related EADs through May 20, 2017?

No. Qualified individuals do not have to apply for this extension of their TPS-related EADs through May 20, 2017.

What may I do if I believe that returning to Sierra Leone is not possible or preferable for me?

This Notice terminates the designation of Sierra Leone for TPS. Nationals of Sierra Leone (and aliens having no nationality who last habitually resided in Sierra Leone) in the United States who believe returning to Sierra Leone is not possible or preferable for them may be eligible to apply for another immigration status, such as lawful permanent residence, asylum, or a nonimmigrant status. Eligibility for these and other immigration benefits is determined individually on a case-by-case basis. For information about eligibility and how to apply, visit the USCIS Web site at *www.USCIS.gov* or call the USCIS National Customer Service Center at 1–800–375–5283.

How does the termination of TPS affect my immigration status and what can I do?

After the termination of the TPS designation of Sierra Leone becomes effective on May 21, 2017, former TPS beneficiaries will maintain the same immigration status they held before TPS (unless the status has since expired or been terminated) or any other status they may have acquired while registered for TPS. Accordingly, if a TPS beneficiary held no lawful immigration status before being granted TPS and did not obtain any other status during the TPS period, he or she may be subject to removal upon the termination of the TPS designation. TPS-related EADs will expire on May 20, 2017, and will not be renewed.

Termination of the TPS designation for Sierra Leone does not necessarily affect pending applications for other forms of immigration status, relief, or protection. However, former TPS beneficiaries will begin to accrue unlawful presence as of May 21, 2017, if they have not been granted any other immigration status, relief, protection, or authorization to remain in the United States.

Employment Authorization Document (EAD)

How can I obtain information on the status of my EAD request?

To get case status information about your request for an EAD, you can check Case Status Online at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833). If your Application for Employment Authorization (Form I–765) has been pending for more than 90 days, and you still need assistance, you may request an EAD inquiry appointment with USCIS by using the InfoPass system at *https://infopass.uscis.gov.* However, we strongly encourage you first to check Case Status Online or call the USCIS National Customer Service Center for assistance before making an InfoPass appointment.

Am I eligible to receive an automatic 6-month extension of my current EAD through May 20, 2017?

Provided that you currently have TPS under the designation of Sierra Leone, this Notice automatically extends your EAD by 6 months if you:

- Are a national of Sierra Leone (or an alien having no nationality who last habitually resided in Sierra Leone);
- Received an EAD under the last designation of TPS for Sierra Leone; and
- Have an EAD with a marked expiration date of November 21, 2016, bearing the notation "A–12" or "C–19" on the face of the card under "Category."

When hired, what documentation may I show to my employer as proof of employment authorization and identity when completing Employment Eligibility Verification (Form I–9)?

You can find a list of acceptable document choices on the "Lists of Acceptable Documents" for Form I–9. You can find additional detailed information on the USCIS I–9 Central Web page at *http://www.uscis.gov/I-9Central.* Employers are required to verify the identity and employment authorization of all new employees by using *Employment Eligibility Verification* (Form I–9). Within 3 days of being hired, you must present proof of identity and employment authorization to your employer.

You may present any document from List A (reflecting both your identity and employment authorization) or one document from List B (reflecting identity) together with one document from List C (reflecting employment authorization). An EAD is an acceptable document under "List A." Or you may present an acceptable receipt for a List A, List B, or List C document as described in the Form I–9 Instructions. An acceptable receipt includes a document that shows an employee has applied to replace a required document that was lost, stolen, or damaged. If you present an acceptable receipt for the application of a replacement document, you must present your employer with the actual document within 90 days. Employers may not reject a document based on a future expiration date.

If your EAD has an expiration date of November 21, 2016, and states "A–12" or "C–19" under "Category," it has been extended automatically for 6 months by virtue of this **Federal Register** Notice and you may choose to present your EAD to your employer as proof of identity and employment authorization for Form I–9 through November 20, 2016 (see the subsection titled "*How do my employer and I complete the Employment Eligibility Verification (Form I–9) using an automatically extended EAD for a new job?*" for further information). To minimize confusion over this extension at the time of hire, you should explain to your employer that USCIS has automatically extended your EAD through May 20, 2017. You may also show your employer a copy of this **Federal Register** Notice confirming the automatic extension of employment authorization through May 20, 2017. As an alternative to presenting your automatically extended EAD, you may choose to present any other acceptable document from List A, a combination of one selection from List B and one selection from List C, or a valid receipt.

What documentation may I show my employer if I am already employed but my current TPS-related EAD is set to expire?

Even though EADs with an expiration date of November 21, 2016, that state "A–12" or "C–19" under "Category" have been automatically extended for 6 months by this **Federal Register** Notice, your employer will need to ask you about your continued employment authorization once May 21, 2017, is reached to meet its responsibilities for *Employment Eligibility Verification* (Form I–9). Your employer may need to re-inspect your automatically extended EAD to check the expiration date and code to record the updated expiration date on your *Employment Eligibility Verification* (Form I–9) if he or she did not keep a copy of this EAD at the time you initially presented it. You and your employer must make corrections to the employment authorization expiration dates in Section 1 and Section 2 of *Employment Eligibility Verification* (Form I–9) (see the subsection titled "*What corrections should my current employer and I make to Employment Eligibility Verification (Form I–9) if my EAD has been automatically extended?*" for further information). You are also strongly encouraged, although not required, to show this **Federal Register** Notice to your employer to explain what to do for *Employment Eligibility Verification* (Form I–9).

By May 20, 2017, the expiration date of the automatic extension, your employer must reverify your employment authorization. If you are employment authorized beyond the expiration date of the automatic extension, you must present any unexpired document from List A or any unexpired document from List C on *Employment Eligibility Verification* (Form I–9) to reverify employment authorization, or an acceptable receipt described in the *Employment Eligibility Verification* (Form I–9) instructions. Your employer is required to reverify on *Employment Eligibility Verification* (Form I–9) the employment authorization of current employees no later than the automatically extended expiration date of a TPS-related EAD, which is May 20, 2017, in this case. Your employer should use either Section 3 of *Employment Eligibility Verification* (Form I–9) originally completed for you or, if this section has already been completed or if the version of *Employment Eligibility Verification* (Form I–9) is no longer valid (check the date in the upper right-hand corner of the form), complete Section 3 of a new *Employment Eligibility Verification* (Form I–9) using the most current version. Note that your employer may not specify which List A or List C document employees must present, and cannot reject an acceptable receipt. An acceptable receipt is described in the *Employment Eligibility Verification* (Form I–9) Instructions and includes one that shows an employee has applied to replace a required document that was lost, stolen or damaged.

Can my employer require that I produce any other documentation to prove my current TPS status, such as proof of my Sierra Leonean citizenship?

No. When completing Form I–9, including reverifying employment authorization, employers must accept any documentation that appears on the "Lists of Acceptable Documents" for Form I–9 that reasonably appears to be genuine and that relates to you or an acceptable List A, List B, or List C receipt. Employers may not request documentation that does not appear on the "Lists of Acceptable Documents." Therefore, employers may not request proof of Sierra Leonean citizenship or proof of re-registration for TPS when completing *Employment Eligibility Verification* (Form I–9) for new hires or reverifying the employment authorization of current employees. Refer to the *Note to Employees* section of this Notice for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin.

What happens after May 20, 2017, for purposes of employment authorization?

After May 20, 2017, employers may no longer accept the EADs that this *Federal Register* Notice automatically extended.

How do my employer and I complete Employment Eligibility Verification (Form I–9) using an automatically extended EAD for a new job?

When using an automatically extended EAD to complete *Employment Eligibility Verification* (Form I–9) for a new job before May 21, 2017, you and your employer should do the following:

1. For Section 1, you should:
   a. Check "An alien authorized to work;"
   b. Write the automatically extended EAD expiration date (May 20, 2017) in the first space; and
   c. Write your alien number (USCIS number or A-number) in the second space (your EAD or other document from DHS will have your USCIS number or A-number printed on it; the USCIS number is the same as your A-number without the A prefix).
2. For Section 2, employers should record the:
   a. Document title;
   b. Issuing authority;
   c. Document number; and
   d. Automatically extended EAD expiration date (May 20, 2017).

No later than May 20, 2017, employers must reverify your employment authorization in Section 3 of Form I–9.

What corrections should my current employer and I make to Employment Eligibility Verification (Form I–9) if my EAD has been automatically extended?

If you are an existing employee who presented a TPS-related EAD that was valid when you first started your job but that EAD has now been automatically extended, your employer may need to reinspect your automatically extended EAD if your employer does not have a photocopy of the EAD on file, and you and your employer should correct your previously completed Form I–9 as follows:

1. For Section 1, you should:
a. Draw a line through the expiration date in the first space;
b. Write "May 20, 2017" above the previous date;
c. Write "TPS Ext." in the margin of Section 1; and
d. Initial and date the correction in the margin of Section 1.
2. For Section 2, employers should:
a. Draw a line through the expiration date written in Section 2;
b. Write "May 20, 2017" above the previous date;
c. Write "EAD Ext." in the margin of Section 2; and
d. Initial and date the correction in the margin of Section 2.

No later than May 21, 2017, when the automatic extension of EADs expires, employers must reverify your employment authorization in Section 3.

As an employer, what are my Employment Eligibility Verification (Form I–9) obligations after May 20, 2017?

Employers are required to reverify an employee's employment authorization in Section 3 of Employment Eligibility Verification (Form I–9) by the expiration date of an automatically extended EAD. Your employee must present unexpired documentation from either List A or List C (or an acceptable Form I–9 receipt) showing he or she is still authorized to work. Employers may not ask for specific documents; employees choose which List A or List C documents to present from the Lists of Acceptable Documents.

If I am an employer enrolled in E-Verify, what do I do when I receive a "Work Authorization Documents Expiration" alert for an automatically extended EAD?

If you have an employee who is a TPS beneficiary who provided a TPS-related EAD when he or she first started working for you, you will receive a "Work Authorization Documents Expiring" case alert when the auto-extension period for this EAD is about to expire. E-Verify will not send an alert for the original November 21, 2016 expiration date. By May 20, 2017, employment authorization must be reverified in Section 3. Employers should not use E-Verify for reverification.

Note to All Employers

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This **Federal Register** Notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For general questions about the employment eligibility verification process, employers may call USCIS at 888–464–4218 (TTY 877–875–6028) or email *I-9Central@dhs.gov.* Calls and emails are accepted in English and many other languages. For questions about avoiding discrimination during the employment eligibility verification process, employers may also call the U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) Employer Hotline at 800–255–8155 (TTY 800–237–2515), which offers language interpretation in numerous languages, or email OSC at *osccrt@usdoj.gov.*

Note to Employees

For general questions about the employment eligibility verification process, you may call USCIS at 888–897–7781 (TTY 877–875–6028) or email *I-9Central@dhs.gov.* Calls are accepted in English and many other languages. You may also call the OSC Worker Information Hotline at 800–255–7688 (TTY 800–237–2515) for information regarding employment discrimination based upon citizenship status, immigration status, or national origin, including discrimination related to Form I–9 and E-Verify. The OSC Worker Information Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the Lists of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee, or an acceptable receipt described in the *Employment Eligibility Verification* (Form I–9) Instructions. Employers may not require extra or additional documentation beyond what is required for Employment Eligibility Verification (Form I–9) completion. Further, employers participating in E-Verify who receive an E-Verify case result of "Tentative Nonconfirmation" (TNC) must promptly inform employees of the TNC and give such employees an opportunity to contest the TNC. A TNC case result means that the information entered into E-Verify from *Employment Eligibility Verification* (Form I–9) differs from Federal or State government records.

Employers may not terminate, suspend, delay training, withhold pay, lower pay, or take any adverse action against you based on your decision to contest a TNC or because the case is still pending with E-Verify. A Final Nonconfirmation (FNC) case result is received when E-Verify cannot verify your employment eligibility. An employer may terminate employment based on a case result of FNC. Work-authorized employees who receive an FNC may call USCIS for assistance at 888–897–7781 (TTY 877–875–6028). If you believe you were discriminated against by an employer in the E-Verify process based on citizenship, immigration status, or national origin, you may contact OSC's Worker Information Hotline at 800–255–7688 (TTY 800–237–2515). Additional information about proper nondiscriminatory Employment Eligibility Verification (Form I–9) and E-Verify procedures is available on the OSC Web site at *http://www.justice.gov/crt/about/osc/* and the USCIS Web site at *http://www.dhs.gov/E-verify.*

Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)

While Federal Government agencies must follow the guidelines laid out by the Federal Government, State and local government agencies establish their own rules and guidelines when granting certain benefits. Each State may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a Federal, State, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary and/or show you are authorized to work based on TPS. Examples are:

(1) Your unexpired EAD;
(2) A copy of this **Federal Register** Notice if your EAD is automatically extended under this Notice;
(3) A copy of your Application for Temporary Protected Status Notice of Action (Form I–797);
(4) A copy of your past or current Application for Temporary Protected Status Approval Notice (Form I–797), if you received one from USCIS; and/or
(5) If there is an automatic extension of work authorization, a copy of the fact sheet from the USCIS TPS Web site that provides information on the automatic extension.

Check with the government agency regarding which document(s) the agency will accept. You may also provide the agency with a copy of this **Federal Register** Notice.

Some benefit-granting agencies use the USCIS Systematic Alien Verification for Entitlements Program (SAVE) to confirm the current immigration status of applicants for public benefits. In most cases, SAVE provides an automated electronic response to benefit granting agencies within seconds but occasionally verification can be delayed. You can check the status of your SAVE verification by using CaseCheck at the following link: *https://save.uscis.gov/casecheck/,* then by clicking the "Check Your Case" button. CaseCheck is a free service that lets you follow the progress of your SAVE verification using your date of birth and one immigration identifier number. If such an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted upon or will act upon a SAVE verification and you do not believe the response is correct, you may make an InfoPass appointment for an in-person interview at a local USCIS office. Detailed information on how to make corrections, make an appointment, or submit a written request to correct records under the Freedom of Information Act can be found at the SAVE Web site at *http://www.uscis.gov/save,* then by choosing "For Benefits Applicants" from the menu on the left and selecting "Questions about your Records?".

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DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2588–16; DHS Docket No. USCIS–2014–0011]

RIN 1615–ZB56

Six-Month Extension of Temporary Protected Status Benefits for Orderly Transition Before Termination of Liberia's Designation for Temporary Protected Status

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice.

SUMMARY: The designation of Liberia for Temporary Protected Status (TPS) is set to expire on November 21, 2016. After reviewing relevant country conditions and consulting with the appropriate U.S. Government (Government) agencies, the Secretary of Homeland Security (Secretary) has determined that conditions in Liberia no longer support its designation for TPS and is therefore extending TPS benefits for 6 months for the purpose of orderly transition before the TPS designation of Liberia terminates. This termination will be effective May 21, 2017, 6 months following the end of the current designation.

To provide for an orderly transition, nationals of Liberia (and aliens having no nationality who last habitually resided in Liberia) who have been granted TPS under the Liberia designation will automatically retain their TPS and have their current TPS-based Employment Authorization Documents (EAD) extended through May 20, 2017. However, an individual's TPS may still be withdrawn because of ineligibility for TPS. On May 21, 2017, nationals of Liberia (and aliens having no nationality who last habitually resided in Liberia) who have been granted TPS under the Liberia designation will no longer have TPS.

DATES: The designation of Liberia for TPS is terminated effective at 12:01 a.m., local time, on May 21, 2017.

FOR FURTHER INFORMATION CONTACT:

- For further information on TPS, please visit the U.S. Citizenship and Immigration Services (USCIS) TPS Web page at *http://www.uscis.gov/tps.* You can find specific information about the termination of Liberia's TPS designation by selecting "Liberia" from the menu on the left side of the TPS Web page.
- You can also contact Jerry Rigdon, Chief of the Waivers and Temporary Services Branch, Service Center Operations Directorate, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW., Washington, DC 20529–2060; or by phone at 202–272–1533 (this is not a toll-free number). Note: The phone number provided here is solely for questions regarding this TPS Notice. It is not for individual case status inquires.
- Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).
- Further information will also be available at local USCIS offices upon publication of this Notice.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

DHS—Department of Homeland Security
DOS—Department of State
EAD—Employment Authorization Document
EVD—Ebola Virus Disease
FNC—Final Nonconfirmation
Government—U.S. Government
INA—Immigration and Nationality Act
OSC—Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices
SAVE—USCIS Systematic Alien Verification for Entitlements Program
Secretary—Secretary of Homeland Security
TNC—Tentative Nonconfirmation
TPS—Temporary Protected Status
TTY—Text Telephone
USCIS—U.S. Citizenship and Immigration Services
WHO—World Health Organization

What is Temporary Protected Status (TPS)?

- TPS is a temporary immigration status granted to eligible nationals of a country designated for TPS under the Immigration and Nationality Act (INA), or to eligible persons without nationality who last habitually resided in the designated country.
- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States, may not be removed, and are authorized to work and obtain EADs so long as they continue to meet the requirements of TPS.
- TPS beneficiaries may also be granted travel authorization as a matter of discretion.
- The granting of TPS does not result in or lead to permanent resident status.
- To qualify for TPS, beneficiaries must meet the eligibility criteria described in INA section 244(c), 8 U.S.C. 1254a(c) and 8 CFR part 244.
- When the Secretary terminates a country's TPS designation, beneficiaries return to the same immigration status they maintained before TPS, if any (unless that status has since expired or been terminated), or to any other immigration status they lawfully obtained while registered for TPS.

When was Liberia designated for TPS?

On November 21, 2014, the Secretary designated Liberia for TPS for a period of 18 months due to the extraordinary and temporary conditions caused by an epidemic of Ebola Virus Disease (EVD) in West Africa that prevented nationals of Liberia from returning to Liberia in safety. The conditions included high EVD transmission rates in wide-spread geographic areas, overwhelmed health care systems unable to handle the large number of EVD patients or to provide treatment for normally preventable or treatable conditions, and containment measures that were causing significant disruptions to Liberia's economy and individuals' ability to access food and earn a livelihood. *See Designation of Liberia for Temporary Protected Status,* 79 FR 69502 (Nov. 21, 2014). The Secretary last announced a 6-month extension of TPS for Liberia on March 22, 2016, based on his determination that although there were significant improvements, conditions supporting the designation persisted. *See Extension of the Designation of Liberia for Temporary Protected Status,* 81 FR 15328 (Mar. 22, 2016).

What authority does the Secretary have to terminate the designation of Liberia for TPS?

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate Government agencies, to designate a foreign state (or part thereof) for TPS if the Secretary determines that certain country conditions exist.[1] The Secretary may then grant TPS to eligible nationals of that foreign state (or eligible aliens having no nationality who last habitually resided in the designated country). *See* INA section 244(a)(1)(A), 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of a country's TPS designation or extension, the Secretary, after consultation with appropriate Government agencies, must review the conditions in a foreign state designated for TPS to determine whether the conditions for the TPS designation continue to be met. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). If the Secretary determines that a foreign state continues to meet the conditions for TPS designation, the designation may be extended for an additional period of 6, 12, or 18 months. *See* INA section 244(b)(3)(C), 8 U.S.C. 1254a(b)(3)(C). If the Secretary determines that the foreign state no longer meets the conditions for TPS designation, the Secretary must terminate the designation, but such termination may not take effect earlier than 60 days after the date the **Federal Register** notice of termination is published, or if later, the expiration of the most recent previous extension of the country designation. *See* INA section 244(b)(3)(B), 8 U.S.C. 1254a(b)(3)(B). The Secretary may determine the appropriate effective date of the termination and the expiration of any TPS-related documentation, such as EADs, for the purpose of providing an orderly transition. *See id.;* INA section 244(d)(3), 8 U.S.C. 1254a(d)(3).

Why is the Secretary terminating the designation of Liberia for TPS as of May 21, 2017, after a 6-month extension of TPS benefits for the purpose of orderly transition?

DHS and the Department of State (DOS) have reviewed conditions in Liberia. Based on the reviews and after consulting with DOS, the Secretary has determined that the termination of the TPS designation of Liberia, after a 6-month extension of TPS benefits for orderly transition, is required because the extraordinary and temporary conditions that prompted Liberia's designation for TPS have substantially resolved and no longer prevent nationals of Liberia from returning in safety.

Guinea, Liberia, and Sierra Leone were designated for TPS in the midst of the largest EVD outbreak in history. From March 2014 through November 2015, these three countries suffered over 11,000 deaths among their more than 28,500 cases of EVD. At the height of the outbreak in late 2014, Ebola was spreading rapidly, with hundreds of new cases being reported each week, the health care systems overwhelmed, and containment measures causing significant disruptions to individuals' ability to access food and earn a livelihood. While the impacts of the epidemic pose a lasting challenge to Liberia's economy and the capacity of its health system to provide treatment for preventable or treatable conditions, at this time, the EVD epidemic has subsided, and conditions have improved since the Secretary initially designated Liberia for TPS.

A robust response by the international community and the governments of Guinea, Liberia, and Sierra Leone has brought the EVD epidemic in West Africa under control and begun the long-term work of rebuilding regional economies and health systems. As of June 2016, Guinea, Liberia, and Sierra Leone are all free of EVD. A country is considered free of EVD transmission after 42 days have passed since the last known person in the country with Ebola receives a second consecutive negative blood test for the virus. While the risk of flare-ups of EVD remains, efforts are underway to promote, over time, robust prevention, surveillance, and response capacity across all three countries.

In Liberia, the government and citizens partnered in a successful effort to control the epidemic and rapidly respond to any new cases. Commerce and imports have begun to rebound, and basic services have returned to pre-EVD outbreak levels. The U.S. Department of Health and Human Services, Centers for Disease Control and Prevention has no Ebola-related Travel Health Notice in place for Liberia as of the date of this Notice.

While health systems and facilities remain fragile, medical centers are no longer overwhelmed by patients with EVD. High rates of child mortality both before and since the EVD epidemic are indicative of the overall fragility of the health system. Although this is comparable to other countries in the region, systems in Liberia must also be able to address ongoing issues of trust between healthcare facilities and communities, as well as continue to care for Ebola survivors who have a series of ongoing and previously unforeseen health conditions, both of which will continue to exacerbate and underscore the fragility of these systems. Normal business activity and national life have largely resumed, although work is ongoing to rebuild Liberia's economy and health care system. On March 29, 2016, the WHO Director-General declared the end of the Public Health Emergency of International Concern regarding the EVD outbreak in West Africa. In conjunction with ending the public health emergency, the WHO emphasized that there should be no restrictions on travel and trade with Guinea, Liberia, and Sierra Leone.

Based upon this review and after consultation with appropriate Government agencies, the Secretary has determined that Liberia no longer continues to meet the statutorily required conditions for a TPS designation on the basis of extraordinary and temporary conditions, because the extraordinary and temporary conditions that prompted Liberia's TPS designation have substantially resolved and no longer prevent nationals of Liberia from returning to Liberia in safety. Therefore, after a 6-month extension of TPS benefits for orderly transition, the Secretary is terminating the TPS designation of Liberia effective at 12:01 a.m., local time, on May 21, 2017, 6 months following the end of the current designation. *See* INA section 244(b)(3)(B), 8 U.S.C. 1254a(b)(3)(B).

To provide for an orderly transition, individuals who have been granted TPS under Liberia's designation will automatically retain TPS and have their current EADs extended until the termination date. *See* INA section 244(d)(3), 8 U.S.C. 1254a(d)(3). DHS may, however, withdraw TPS from any beneficiary who fails to continue meeting the requirements for TPS. *See* INA section 244(c)(3), 8 U.S.C. 1254a(c)(3). There are approximately 2,160 current Liberia TPS beneficiaries. These persons are urged to use the time before termination of their TPS to prepare for and arrange their departure from the United States or, in the alternative, to apply for other immigration benefits for which they are eligible.

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[1] As of March 1, 2003, in accordance with section 1517 of title XV of the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, any reference to the Attorney General in a provision of the INA describing functions transferred from the Department of Justice to the Department of Homeland Security (DHS) "shall be deemed to refer to the Secretary" of Homeland Security. *See* 6 U.S.C. 557 (codifying the Homeland Security Act of 2002, tit. XV, section 1517).

Notice of Six-Month Extension of TPS Benefits for Orderly Transition Before Termination of the TPS Designation of Liberia

By the authority vested in me as Secretary under INA section 244, 8 U.S.C. 1254a, I have determined, after consultation with the appropriate Government agencies, that Liberia no longer meets the conditions for designation of TPS under INA section 244(b)(1). 8 U.S.C. 1254a(b)(1).

Accordingly, I order as follows:

(1) Pursuant to INA section 244(b)(3)(B), the designation of Liberia for TPS is terminated effective at 12:01 a.m., local time, on May 21, 2017, 6 months following the end of the current designation.

(2) DHS estimates that there are approximately 2,160 nationals of Liberia (and aliens having no nationality who last habitually resided in Liberia) who currently receive TPS benefits.

(3) To provide for an orderly transition, nationals of Liberia (and aliens having no nationality who last habitually resided in Liberia) who have been granted TPS under the Liberia designation will automatically retain TPS until the May 21, 2017, termination date. However, an individual's TPS may be withdrawn before this date under INA section 244(c)(3) and 8 CFR 244.14 because of ineligibility for TPS.

(4) TPS-based EADs that expire on November 21, 2016, are extended automatically through May 20, 2017, for qualified nationals of Liberia (and aliens having no nationality who last habitually resided in Liberia).

(5) Information concerning the termination of TPS for nationals of Liberia (and aliens having no nationality who last habitually resided in Liberia) will be available at local USCIS offices upon publication of this notice and through the USCIS National Customer Service Center at 1–800–375–5283. This information will be published on the USCIS Web site at *www.USCIS.gov.*

Jeh Charles Johnson,
Secretary.

If I currently have TPS under Liberia's designation, do I need to re-register to keep my TPS until May 21, 2017, the termination date?

No. If you already have been granted TPS benefits through the Liberia TPS program, you do not have to re-register to keep your TPS benefits. You will automatically retain TPS until the termination date. However, your TPS may still be withdrawn under INA section 244(c)(3) and 8 CFR part 244 because of ineligibility for TPS. 8 U.S.C. 1254a(c)(3), 8 CFR 244.14. When termination becomes effective on May 21, 2017, you will no longer have TPS.

Why is the Secretary automatically extending the validity of EADs from November 21, 2016, through May 20, 2017?

The Secretary has decided to extend automatically the validity of EADs to provide for an orderly transition leading up to the effective date for the termination of the Liberia TPS designation. Therefore, the validity of the applicable EADs is extended for a period of 6 months, through May 20, 2017. 8 U.S.C. 1254a(a)(2) and (d)(3).

Must qualified individuals apply for the automatic extension of their TPS-related EADs through May 20, 2017?

No. Qualified individuals do not have to apply for this extension of their TPS-related EADs through May 20, 2017.

What may I do if I believe that returning to Liberia is not possible or preferable for me?

This Notice terminates the designation of Liberia for TPS. Nationals of Liberia (and aliens having no nationality who last habitually resided in Liberia) in the United States who believe returning to Liberia is not possible or preferable for them may be eligible to apply for another immigration status, such as lawful permanent residence, asylum, or a nonimmigrant status. Eligibility for these and other immigration benefits is determined individually on a case-by-case basis. For information about eligibility and how to apply, visit the USCIS Web site at *www.uscis.gov* or call the USCIS National Customer Service Center at 1–800–375–5283.

How does the termination of TPS affect my immigration status and what can I do?

After the termination of the TPS designation of Liberia becomes effective May 21, 2017, former TPS beneficiaries will maintain the same immigration status they held before TPS (unless the status has since expired or been terminated) or any other status they may have acquired while registered for TPS. Liberians who are included in the President's grant of Deferred Enforced Departure for Liberians, if extended past the current expiration date of September 30, 2016, will remain covered by Deferred Enforced Departure. Accordingly, if a TPS beneficiary held no lawful immigration status before being granted TPS and did not obtain any other status during the TPS period, he or she may be subject to removal upon the termination of the TPS designation. TPS-related EADs will expire on May 20, 2017, and will not be renewed.

Termination of the TPS designation for Liberia does not necessarily affect pending applications for other forms of immigration relief or protection. However, former TPS beneficiaries will begin to accrue unlawful presence as of May 21, 2017, if they have not been granted any other immigration status or protection or if they have no pending application to obtain benefits.

Employment Authorization Document (EAD)

How can I obtain information on the status of my EAD request?

To get case status information about your request for an EAD, you can check Case Status Online at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833). If your Application for Employment Authorization (Form I–765) has been pending for more than 90 days, and you still need assistance, you may request an EAD inquiry appointment with USCIS by using the InfoPass system at *https://infopass.uscis.gov.* However, we strongly encourage you first to check Case Status Online or call the USCIS National Customer Service Center for assistance before making an InfoPass appointment.

Am I eligible to receive an automatic 6-month extension of my current EAD through May 20, 2017?

Provided that you currently have TPS under the designation of Liberia, this Notice automatically extends your EAD by 6 months if you:

- Are a national of Liberia (or an alien having no nationality who last habitually resided in Liberia);
- Received an EAD under the last designation of TPS for Liberia; and
- Have an EAD with a marked expiration date of November 21, 2016, bearing the notation "A–12" or "C–19" on the face of the card under "Category."

When hired, what documentation may I show to my employer as proof of employment authorization and identity when completing Employment Eligibility Verification (Form I–9)?

You can find a list of acceptable document choices on the "Lists of Acceptable Documents" for Form I–9. You can find additional detailed information on the USCIS I–9 Central Web page at *http://www.uscis.gov/I-9Central.* Employers are required to verify the identity and employment authorization of all new employees by using *Employment Eligibility Verification* (Form I–9). Within 3 days of being hired, you must present proof of identity and employment authorization to your employer.

You may present any document from List A (reflecting both your identity and employment authorization) or one document from List B (reflecting identity) together with one document from List C (reflecting employment authorization). An EAD is an acceptable document under "List A." Or you may present an acceptable receipt for a List A, List B, or List C document as described in the Form I–9 Instructions. An acceptable receipt includes a document that shows an employee has applied to replace a required document that was lost, stolen, or damaged. If you present an acceptable receipt for the application of a replacement document, you must present your employer with the actual document within 90 days. Employers may not reject a document based on a future expiration date.

If your EAD has an expiration date of November 21, 2016, and states "A–12" or "C–19" under "Category," it has been extended automatically for 6 months by virtue of this **Federal Register** Notice and you may choose to present your EAD to your employer as proof of identity and employment authorization for Form I–9 through May 20, 2017 (see the subsection titled "*How do my employer and I complete the Employment Eligibility Verification (Form I–9) using an automatically extended EAD for a new job?*" for further information). To minimize confusion over this extension at the time of hire, you should explain to your employer that USCIS has automatically extended your EAD through May 20, 2017. You may also show your employer a copy of this **Federal Register** Notice confirming the automatic extension of employment authorization through May 20, 2017. As an alternative to presenting your automatically extended EAD, you may choose to present any other acceptable document from List A, a combination of one selection from List B and one selection from List C, or a valid receipt.

What documentation may I show my employer if I am already employed but my current TPS-related EAD is set to expire?

Even though EADs with an expiration date of November 21, 2016, that state "A–12" or "C–19" under "Category" have been automatically extended for 6 months by this **Federal Register** Notice, your employer will need to ask you about your continued employment authorization once November 21, 2016, is reached to meet its responsibilities for *Employment Eligibility Verification* (Form I–9). Your employer may need to re-inspect your automatically extended EAD to check the expiration date and code to record the updated expiration date on your *Employment Eligibility Verification* (Form I–9) if he or she did not keep a copy of this EAD at the time you initially presented it. You and your employer must make corrections to the employment authorization expiration dates in Section 1 and Section 2 of *Employment Eligibility Verification* (Form I–9) (see the subsection titled "*What corrections should my current employer and I make to Employment Eligibility Verification (Form I–9) if my EAD has been automatically extended?*" for further information). You are also strongly encouraged, although not required, to show this **Federal Register** Notice to your employer to explain what to do for *Employment Eligibility Verification* (Form I–9).

By May 20, 2017, the expiration date of the automatic extension, your employer must reverify your employment authorization. If you are employment authorized beyond the expiration date of the automatic extension, you must present any unexpired document from List A or any unexpired document from List C on *Employment Eligibility Verification* (Form I–9) to reverify employment authorization, or an acceptable List A or List C receipt described in the *Employment Eligibility Verification* (Form I–9) instructions. Your employer is required to reverify on *Employment Eligibility Verification* (Form I–9) the employment authorization of current employees no later than the automatically extended expiration date of a TPS-related EAD, which is May 20, 2017, in this case. Your employer should use either Section 3 of the *Employment Eligibility Verification* (Form I–9) originally completed for you or, if this section has already been completed or if the version of *Employment Eligibility Verification* (Form I–9) is no longer valid (check the date in the upper right-hand corner of the form), complete Section 3 of a new *Employment Eligibility Verification* (Form I–9) using the most current version. Note that your employer may not specify which List A or List C document employees must present, and cannot reject an acceptable receipt. An acceptable receipt is described in the *Employment Eligibility Verification* (Form I–9) Instructions and includes one that shows an employee has applied to replace a required document that was lost, stolen or damaged.

Can my employer require that I produce any other documentation to prove my current TPS status, such as proof of my Liberian citizenship?

No. When completing *Employment Eligibility Verification* (Form I–9), including reverifying employment authorization, employers must accept any documentation that appears on the "Lists of Acceptable Documents" for *Employment Eligibility Verification* (Form I–9) that reasonably appears to be genuine and that relates to you or an acceptable List A, List B, or List C receipt. Employers may not request documentation that does not appear on the "Lists of Acceptable Documents." Therefore, employers may not request proof of Liberian citizenship or proof of re-registration for TPS when completing *Employment Eligibility Verification* (Form I–9) for new hires or reverifying the employment authorization of current employees. Refer to the *Note to Employees* section of this Notice for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin.

What happens after May 20, 2017, for purposes of employment authorization?

After May 20, 2017, employers may no longer accept the EADs that this **Federal Register** Notice automatically extended.

How do my employer and I complete Employment Eligibility Verification (Form I–9) using an automatically extended EAD for a new job?

When using an automatically extended EAD to complete Employment Eligibility Verification (Form I–9) for a new job before May 20, 2017, you and your employer should do the following:

1. For Section 1, you should:
   a. Check "An alien authorized to work;"
   b. Write the automatically extended EAD expiration date (May 20, 2017) in the first space; and
   c. Write your alien number (USCIS number or A-number) in the second space (your EAD or other document from DHS will have your USCIS number or A-number printed on it; the USCIS number is the same as your A-number without the A prefix).
2. For Section 2, employers should record the:
   a. Document title;
   b. Issuing authority;
   c. Document number; and
   d. Automatically extended EAD expiration date (May 20, 2017).

No later than May 20, 2017, employers must reverify your employment authorization in Section 3 of Form I–9.

What corrections should my current employer and I make to Employment Eligibility Verification (Form I–9) if my EAD has been automatically extended?

If you are an existing employee who presented a TPS-related EAD that was valid when you first started your job, but that EAD has now been automatically extended, your employer may need to reinspect your automatically extended EAD if your employer does not have a photocopy of the EAD on file, and you and your employer should correct your previously completed Form I–9 as follows:

1. For Section 1, you should:
   a. Draw a line through the expiration date in the first space;
   b. Write "May 20, 2017," above the previous date;
   c. Write "TPS Ext." in the margin of Section 1; and
   d. Initial and date the correction in the margin of Section 1.
2. For Section 2, employers should:
   a. Draw a line through the expiration date written in Section 2;
   b. Write "May 20, 2017" above the previous date;
   c. Write "EAD Ext." in the margin of Section 2; and
   d. Initial and date the correction in the margin of Section 2.

No later than May 20, 2017, when the automatic extension of EADs expires, employers must reverify your employment authorization in Section 3.

As an employer, what are my Employment Eligibility Verification (Form I–9) obligations after May 20, 2017?

Employers are required to reverify an employee's employment authorization in Section 3 of Employment Eligibility Verification (Form I–9) by the expiration date of an automatically extended EAD. Your employee must present unexpired documentation from either List A or List C (or an acceptable Form I–9 receipt) showing he or she is still authorized to work. Employers may not ask for specific documents; employees choose which List A or List C documents to present from the Lists of Acceptable Documents.

If I am an employer enrolled in E-Verify, what do I do when I receive a "Work Authorization Documents Expiration" alert for an automatically extended EAD?

If you have an employee who is a TPS beneficiary who provided a TPS-related EAD when he or she first started working for you, you will receive a "Work Authorization Documents Expiring" case alert when the auto-extension period for this EAD is about to expire. E-Verify will not send an alert for the original November 21, 2016 expiration date. By May 20, 2017, employment authorization must be reverified in Section 3. Employers should not use E-Verify for reverification.

Note to All Employers

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This **Federal Register** Notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For general questions about the employment eligibility verification process, employers may call USCIS at 888–464–4218 (TTY 877–875–6028) or email *I-9Central@dhs.gov.* Calls and emails are accepted in English and many other languages. For questions about avoiding discrimination during the employment eligibility verification process, employers may also call the U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) Employer Hotline, at 800–255–8155 (TTY 800–237–2515), which offers language interpretation in numerous languages, or email OSC at *osccrt@usdoj.gov.*

Note to Employees

For general questions about the employment eligibility verification process, you may call USCIS at 888–897–7781 (TTY 877–875–6028) or email *I-9Central@dhs.gov.* Calls are accepted in English and many other languages. You may also call the OSC Worker Information Hotline at 800–255–7688 (TTY 800–237–2515) for information regarding employment discrimination based upon citizenship status, immigration status, or national origin, including discrimination related to *Employment Eligibility Verification* (Form I–9) and E-Verify. The OSC Worker Information Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the Lists of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee, or an acceptable receipt described in the *Employment Eligibility Verification* (Form I–9) Instructions. Employers may not require extra or additional documentation beyond what is required for *Employment Eligibility Verification* (Form I–9) completion. Further, employers participating in E-Verify who receive an E-Verify case result of "Tentative Nonconfirmation" (TNC) must promptly inform employees of the TNC and give such employees an opportunity to contest the TNC. A TNC case result means that the information entered into E-Verify from *Employment Eligibility Verification* (Form I–9) differs from Federal or State government records.

Employers may not terminate, suspend, delay training, withhold pay, lower pay, or take any adverse action against you based on your decision to contest a TNC or because the case is still pending with E-Verify. A Final Nonconfirmation (FNC) case result is received when E-Verify cannot verify your employment eligibility. An employer may terminate employment based on a case result of FNC. Work-authorized employees who receive an FNC may call USCIS for assistance at 888–897–7781 (TTY 877–875–6028). If you believe you were discriminated against by an employer in the E-Verify process based on citizenship, immigration status, or national origin, you may contact OSC's Worker Information Hotline at 800–255–7688 (TTY 800–237–2515). Additional information about proper nondiscriminatory *Employment Eligibility Verification* (Form I–9) and E-Verify procedures is available on the OSC Web site at *http://www.justice.gov/crt/about/osc/* and the USCIS Web site at *http://www.dhs.gov/E-verify.*

Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)

While Federal Government agencies must follow the guidelines laid out by the Federal Government, State and local government agencies establish their own rules and guidelines when granting certain benefits. Each State may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a Federal, State, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary and/or show you are authorized to work based on TPS. Examples are:

(1) Your unexpired EAD;

(2) A copy of this **Federal Register** Notice if your EAD is automatically extended under this Notice;

(3) A copy of your Application for Temporary Protected Status Notice of Action (Form I–797);

(4) A copy of your past or current Application for Temporary Protected Status Approval Notice (Form I–797), if you received one from USCIS; and/or

(5) If there is an automatic extension of work authorization, a copy of the fact sheet from the USCIS TPS Web site that provides information on the automatic extension.

Check with the government agency regarding which document(s) the agency will accept. You may also provide the agency with a copy of this **Federal Register** Notice.

Some benefit-granting agencies use the USCIS Systematic Alien Verification for Entitlements Program (SAVE) to confirm the current immigration status of applicants for public benefits. In most cases, SAVE provides an automated electronic response to benefit granting agencies within seconds but occasionally verification can be delayed. You can check the status of your SAVE verification by using CaseCheck at the following link: *https://save.uscis.gov/casecheck/,* then by clicking the "Check Your Case" button. CaseCheck is a free service that lets you follow the progress of your SAVE verification using your date of birth and one immigration identifier number. If such an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted upon or will act upon a SAVE verification and you do not believe the response is correct, you may make an InfoPass appointment for an in-person interview at a local USCIS office. Detailed information on how to make corrections, make an appointment, or submit a written request to correct records under the Freedom of Information Act can be found at the SAVE Web site at *http://www.uscis.gov/save,* then by choosing "For Benefit Applicants" from the menu on the left and selecting "Questions about your Records?".

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DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2587–16; DHS Docket No. USCIS–2014–0010]

RIN 1615–ZB55

Six-Month Extension of Temporary Protected Status Benefits for Orderly Transition Before Termination of Guinea's Designation for Temporary Protected Status

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice.

SUMMARY: The designation of Guinea for Temporary Protected Status (TPS) is set to expire on November 21, 2016. After reviewing country conditions and consulting with the appropriate U.S. Government (Government) agencies, the Secretary of the Department of Homeland Security (Secretary) has determined that conditions in Guinea no longer support its designation for TPS and is therefore extending TPS benefits for 6 months for the purpose of orderly transition before the TPS designation of Guinea terminates. This termination will be effective May 21, 2017, 6 months following the end of the current designation.

To provide for an orderly transition, nationals of Guinea (and aliens having no nationality who last habitually resided in Guinea) who have been granted TPS under the Guinea designation will automatically retain their TPS and have their current tps-based Employment Authorization Documents (EAD) extended through May 20, 2017. However, an individual's TPS may still be withdrawn because of ineligibility for TPS. On May 21, 2017, nationals of Guinea (and aliens having no nationality who last habitually resided in Guinea) who have been granted TPS under the Guinea designation will no longer have TPS.

DATES: The designation of Guinea for TPS is terminated effective at 12:01 a.m., local time, on May 21, 2017.

FOR FURTHER INFORMATION CONTACT:

- For further information on TPS, please visit the U.S. Citizenship and Immigration Services (USCIS) TPS Web page at *http://www.uscis.gov/tps.* You can find specific information about the termination of Guinea's TPS designation by selecting "Guinea" from the menu on the left side of the TPS Web page.
- You can also contact Jerry Rigdon, Chief of the Waivers and Temporary Services Branch, Service Center Operations Directorate, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW., Washington, DC 20529–2060; or by phone at 202–272–1533 (this is not a toll-free number). Note: The phone number provided here is solely for questions regarding this TPS Notice. It is not for individual case status inquires.
- Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).
- Further information will also be available at local USCIS offices upon publication of this Notice.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

DHS—Department of Homeland Security
DOS—Department of State
EAD—Employment Authorization Document
EVD—Ebola Virus Disease
FNC—Final Nonconfirmation
Government—U.S. Government
INA—Immigration and Nationality Act
OSC—Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices
SAVE—USCIS Systematic Alien Verification for Entitlements Program
Secretary—Secretary of Homeland Security
TNC—Tentative Nonconfirmation
TPS—Temporary Protected Status
TTY—Text Telephone
USCIS—U.S. Citizenship and Immigration Services
WHO—World Health Organization

What is Temporary Protected Status (TPS)?

- TPS is a temporary immigration status granted to eligible nationals of a country designated for TPS under the Immigration and Nationality Act (INA), or to eligible persons without nationality who last habitually resided in the designated country.

- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States, may not be removed, and are authorized to work and obtain EADs so long as they continue to meet the requirements of TPS.
- TPS beneficiaries may also be granted travel authorization as a matter of discretion.
- The granting of TPS does not result in or lead to permanent resident status.
- To qualify for TPS, beneficiaries must meet the eligibility criteria described in INA section 244(c), 8 U.S.C. 1254a(c) and 8 CFR part 244.
- When the Secretary terminates a country's TPS designation, beneficiaries return to the same immigration status they maintained before TPS, if any (unless that status has since expired or been terminated), or to any other immigration status they lawfully obtained while registered for TPS.

When was Guinea designated for TPS?

On November 21, 2014, the Secretary designated Guinea for TPS for a period of 18 months due to the extraordinary and temporary conditions caused by an epidemic of Ebola Virus Disease (EVD) in West Africa that prevented nationals of Guinea from returning to Guinea in safety. The conditions included high EVD transmission rates in wide-spread geographic areas, overwhelmed health care systems unable to handle the large number of EVD patients or to provide treatment for normally preventable or treatable conditions, and containment measures that were causing significant disruptions to Guinea's economy and individuals' ability to access food and earn a livelihood. *See Designation of Guinea for Temporary Protected Status,* 79 FR 69511 (Nov. 21, 2014). The Secretary last announced a 6-month extension of TPS for Guinea on March 22, 2016, based on his determination that although there were significant improvements, conditions supporting the designation persisted. *See Extension of the Designation of Guinea for Temporary Protected Status,* 81 FR 15339 (Mar. 22, 2016).

What authority does the Secretary have to terminate the designation of Guinea for TPS?

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate Government agencies, to designate a foreign state (or part thereof) for TPS if the Secretary determines that certain country conditions exist.[1] The Secretary may then grant TPS to eligible nationals of that foreign state (or eligible aliens having no nationality who last habitually resided in the designated country). *See* INA section 244(a)(1)(A), 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of a country's TPS designation or extension, the Secretary, after consultation with appropriate Government agencies, must review the conditions in a foreign state designated for TPS to determine whether the conditions for the TPS designation continue to be met. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). If the Secretary determines that a foreign state continues to meet the conditions for TPS designation, the designation may be extended for an additional period of 6, 12, or 18 months. *See* INA section 244(b)(3)(C), 8 U.S.C. 1254a(b)(3)(C). If the Secretary determines that the foreign state no longer meets the conditions for TPS designation, the Secretary must terminate the designation, but such termination may not take effect earlier than 60 days after the date the **Federal Register** notice of termination is published, or if later, the expiration of the most recent previous extension of the country designation. *See* INA section 244(b)(3)(B), 8 U.S.C. 1254a(b)(3)(B). The Secretary may determine the appropriate effective date of the termination and the expiration of any TPS-related documentation, such as EADs, for the purpose of providing an orderly transition. *See id.;* INA section 244(d)(3), 8 U.S.C. 1254a(d)(3).

Why is the Secretary terminating the designation of Guinea for TPS as of May 21, 2017, after a 6-month extension of TPS benefits for the purpose of orderly transition?

DHS and the Department of State (DOS) have reviewed conditions in Guinea. Based on the reviews and after consulting with DOS, the Secretary has determined that the termination of the TPS designation of Guinea, after a 6-month extension of TPS benefits for orderly transition, is required because the extraordinary and temporary conditions that prompted Guinea's designation for TPS have substantially resolved and no longer prevent nationals of Guinea from returning in safety.

Guinea, Liberia, and Sierra Leone were designated for TPS in the midst of the largest EVD outbreak in history. From March 2014 through November 2015, these three countries suffered over 11,000 deaths among their more than 28,500 cases of EVD. At the height of the outbreak in late 2014, Ebola was spreading rapidly, with hundreds of new cases being reported each week, the health care systems overwhelmed, and containment measures causing significant disruptions to individuals' ability to access food and earn a livelihood. While the impacts of the epidemic pose a lasting challenge to Guinea's economy and the capacity of its health system to provide treatment for preventable or treatable conditions, at this time, the EVD epidemic has subsided, and conditions have improved since the Secretary initially designated Guinea for TPS.

A robust response by the international community and the governments of Guinea, Liberia, and Sierra Leone has brought the EVD epidemic in West Africa under control and begun the long-term work of rebuilding regional economies and health systems. Guinea was initially declared Ebola-free on December 29, 2015, by the World Health Organization (WHO). On March 29, 2016, the WHO Director-General declared the end of the Public Health Emergency of International Concern regarding the EVD outbreak in West Africa. In conjunction with ending the public health emergency, the WHO emphasized that there should be no restrictions on travel and trade with Guinea, Liberia, and Sierra Leone. As of June 2016, the WHO declared Guinea free of Ebola transmission. A country is considered free of EVD transmission after 42 days have passed since the last known person in the country with EVD receives a second consecutive negative blood test for the virus. As of August 31, 2016, Guinea had completed a 90-day period of enhanced surveillance for EVD following the declaration that it was free of EVD transmission. While the risk of flare-ups of EVD remains, efforts are underway to promote, over time, robust prevention, surveillance, and response capacity across all three countries.

The Guinean government has established response and containment measures to detect the movement of symptomatic persons and conducts in-home monitoring of those who have been exposed to EVD. Guineans return daily from travel abroad, and airlines are operating almost at capacity. While health systems and facilities remain fragile, medical centers are no longer overwhelmed by patients with EVD. High rates of child mortality both before and since the EVD epidemic are indicative of the overall fragility of the health system. Although this is comparable to other countries in the region, systems in Guinea must also be able to address ongoing issues of trust between healthcare facilities and communities, as well as continue to care for Ebola survivors who have a series of ongoing and previously unforeseen health conditions, both of which will continue to exacerbate and underscore the fragility of these systems. There are no parts of the country that should be avoided because of the virus. Normal business activity and national life have largely resumed, although work is ongoing to rebuild Guinea's economy and health care system. The U.S. Department of Health and Human Services, Centers for Disease Control and Prevention has no Travel Health Notice in place for Guinea related to Ebola as of the date of this Notice.

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[1] As of March 1, 2003, in accordance with section 1517 of title XV of the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, any reference to the Attorney General in a provision of the INA describing functions transferred from the Department of Justice to the Department of Homeland Security (DHS) "shall be deemed to refer to the Secretary" of Homeland Security. *See* 6 U.S.C. 557 (codifying the Homeland Security Act of 2002, tit. XV, section 1517).

Based upon this review and after consultation with appropriate Government agencies, the Secretary has determined that Guinea no longer continues to meet the statutorily required conditions for a TPS designation on the basis of extraordinary and temporary conditions, because the extraordinary and temporary conditions that prompted Guinea's TPS designation have substantially resolved and no longer prevent nationals of Guinea from returning to Guinea in safety. Therefore, after a 6-month extension of TPS benefits for orderly transition, the Secretary is terminating the TPS designation of Guinea effective at 12:01 a.m., local time, on May 21, 2017. *See* INA section 244(b)(3)(B), 8 U.S.C. 1254a(b)(3)(B).

To provide for an orderly transition, individuals who have been granted TPS under Guinea's designation will automatically retain TPS and have their current EADs extended until the termination date. *See* INA section 244(d)(3), 8 U.S.C. 1254a(d)(3). DHS may, however, withdraw TPS from any beneficiary who fails to continue meeting the requirements for TPS. *See* INA section 244(c)(3), 8 U.S.C. 1254a(c)(3). There are approximately 930 current Guinea TPS beneficiaries. These persons are urged to use the time before termination of their TPS to prepare for and arrange their departure from the United States or, in the alternative, to apply for other immigration benefits for which they are eligible.

Notice of Six-Month Extension of TPS Benefits for Orderly Transition Before Termination of the TPS Designation of Guinea

By the authority vested in me as Secretary under INA section 244, 8 U.S.C. 1254a, I have determined, after consultation with the appropriate Government agencies, that Guinea no longer meets the conditions for designation of TPS under INA section 244(b)(1). 8 U.S.C. 1254a(b)(1).

Accordingly, I order as follows:

(1) Pursuant to INA section 244(b)(3)(B), the designation of Guinea for TPS is terminated effective at 12:01 a.m., local time on May 21, 2017, 6 months following the end of the current designation.

(2) DHS estimates that there are approximately 930 nationals of Guinea (and aliens having no nationality who last habitually resided in Guinea) who currently receive TPS benefits.

(3) To provide for an orderly transition, nationals of Guinea (and aliens having no nationality who last habitually resided in Guinea) who have been granted TPS under the Guinea designation will automatically retain TPS until the May 21, 2017, termination date. However, an individual's TPS may be withdrawn prior to this date under INA section 244(c)(3) and 8 CFR 244.14 because of ineligibility for TPS.

(4) TPS-based EADs that expire on November 21, 2016, are extended automatically through May 20, 2017, for qualified nationals of Guinea (and aliens having no nationality who last habitually resided in Guinea).

(5) Information concerning the termination of TPS for nationals of Guinea (and aliens having no nationality who last habitually resided in Guinea) will be available at local USCIS offices upon publication of this Notice and through the USCIS National Customer Service Center at 1–800–375–5283. This information will be published on the USCIS Web site at *www.USCIS.gov*.

Jeh Charles Johnson,
Secretary.

If I currently have TPS under Guinea's designation, do I need to re-register to keep my TPS until May 21, 2017, the termination date?

No. If you already have been granted TPS benefits through the Guinea TPS program, you do not have to re-register to keep your TPS benefits. You will automatically retain TPS until the termination date. However, your TPS may still be withdrawn under INA section 244(c)(3) and 8 CFR part 244 because of ineligibility for TPS. 8 U.S.C. 1254a(c)(3), 8 CFR 244.14. When termination becomes effective on May 21, 2017, you will no longer have TPS.

Why is the Secretary automatically extending the validity of EADs from November 21, 2016, through May 20, 2017?

The Secretary has decided to extend automatically the validity of EADs to provide for an orderly transition leading up to the effective date for the termination of the Guinea TPS designation. Therefore, the validity of the applicable EADs is extended for a period of 6 months, through May 20, 2017. 8 U.S.C. 1254a(a)(2) and (d)(3).

Must qualified individuals apply for the automatic extension of their TPS-Related EADs through May 20, 2017?

No. Qualified individuals do not have to apply for this extension of their TPS-related EADs through May 20, 2017.

What may I do if I believe that returning to Guinea is not possible or preferable for Me?

This Notice terminates the designation of Guinea for TPS. Nationals of Guinea (and aliens having no nationality who last habitually resided in Guinea) in the United States who believe returning to Guinea is not possible or preferable for them may be eligible to apply for another immigration status, such as lawful permanent residence, asylum, or a nonimmigrant status. Eligibility for these and other immigration benefits is determined individually on a case-by-case basis. For information about eligibility and how to apply, visit the USCIS Web site at *www.USCIS.gov* or call the USCIS National Customer Service Center at 1–800–375–5283.

How does the termination of TPS affect my immigration status and what can I do?

After the termination of the TPS designation of Guinea becomes effective on May 21, 2017, former TPS beneficiaries will maintain the same immigration status they held before TPS (unless the status has since expired or been terminated) or any other status they may have acquired while registered for TPS. Accordingly, if a TPS beneficiary held no lawful immigration status before being granted TPS and did not obtain any other status during the TPS period, he or she may be subject to removal upon the termination of the TPS designation. TPS-related EADs will expire on May 20, 2017, and will not be renewed.

Termination of the TPS designation for Guinea does not necessarily affect pending applications for other forms of immigration status, relief or protection. However, former TPS beneficiaries will begin to accrue unlawful presence as of May 21, 2017, if they have not been granted any other immigration status, relief, protection, or authorization to remain in the United States.

Employment Authorization Document (EAD)

How can I obtain information on the status of my EAD request?

To get case status information about your request for an EAD, you can check Case Status Online at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833). If your Application for Employment Authorization (Form I–765) has been pending for more than 90 days, and you still need assistance, you may request an EAD inquiry appointment with USCIS by using the InfoPass system at *https://infopass.uscis.gov.* However, we strongly encourage you first to check Case Status Online or call the USCIS National Customer Service Center for assistance before making an InfoPass appointment.

Am I eligible to receive an automatic 6-month extension of my current EAD through May 20, 2017?

Provided that you currently have TPS under the designation of Guinea, this Notice automatically extends your EAD by 6 months if you:

- Are a national of Guinea (or an alien having no nationality who last habitually resided in Guinea);
- Received an EAD under the designation of Guinea for TPS; and
- Have an EAD with a marked expiration date of November 21, 2016, bearing the notation ''A–12'' or ''C–19'' on the face of the card under ''Category.''

When hired, what documentation may I show to my employer as proof of employment authorization and identity when completing Employment Eligibility Verification (Form I–9)?

You can find a list of acceptable document choices on the ''Lists of Acceptable Documents'' for Form I–9. You can find additional detailed information on the USCIS I–9 Central Web page at *http://www.uscis.gov/I-9Central.* Employers are required to verify the identity and employment authorization of all new employees by using *Employment Eligibility Verification* (Form I–9). Within 3 days of being hired, you must present proof of identity and employment authorization to your employer.

You may present any document from List A (reflecting both your identity and employment authorization) or one document from List B (reflecting identity) together with one document from List C (reflecting employment authorization). An EAD is an acceptable document under ''List A.'' Or you may present an acceptable receipt for a List A, List B, or List C document as described in the Form I–9 Instructions. An acceptable receipt includes a document that shows an employee has applied to replace a required document that was lost, stolen, or damaged. If you present an acceptable receipt for the application of a replacement document, you must present your employer with the actual document within 90 days. Employers may not reject a document based on a future expiration date.

If your EAD has an expiration date of November 21, 2016, and states ''A–12'' or ''C–19'' under ''Category,'' it has been extended automatically for 6 months by virtue of this **Federal Register** Notice and you may choose to present your EAD to your employer as proof of identity and employment authorization for Form I–9 through May 20, 2017 (see the subsection titled ''*How do my employer and I complete the Employment Eligibility Verification (Form I–9) using an automatically extended EAD for a new job?*'' for further information). To minimize confusion over this extension at the time of hire, you should explain to your employer that USCIS has automatically extended your EAD through May 20, 2017. You may also show your employer a copy of this **Federal Register** Notice confirming the automatic extension of employment authorization through May 20, 2017. As an alternative to presenting your automatically extended EAD, you may choose to present any other acceptable document from List A, a combination of one selection from List B and one selection from List C, or a valid receipt.

What documentation may I show my employer if I am already employed but my current TPS-related EAD is set to expire?

Even though EADs with an expiration date of November 21, 2016, that state ''A–12'' or ''C–19'' under ''Category'' have been automatically extended for 6 months by this **Federal Register** Notice, your employer will need to ask you about your continued employment authorization once November 21, 2016, is reached to meet its responsibilities for *Employment Eligibility Verification* (Form I–9). Your employer may need to re-inspect your automatically extended EAD to check the expiration date and code to record the updated expiration date on your *Employment Eligibility Verification* (Form I–9) if he or she did not keep a copy of this EAD at the time you initially presented it. You and your employer must make corrections to the employment authorization expiration dates in Section 1 and Section 2 of *Employment Eligibility Verification* (Form I–9) (see the subsection titled ''*What corrections should my current employer and I make to Employment Eligibility Verification (Form I–9) if my EAD has been automatically extended?*'' for further information). You are also strongly encouraged, although not required, to show this **Federal Register** Notice to your employer to explain what to do for *Employment Eligibility Verification* (Form I–9).

By May 20, 2017, the expiration date of the automatic extension, your employer must reverify your employment authorization. If you are employment authorized beyond the expiration date of the automatic extension, you must present any unexpired document from List A or any unexpired document from List C on Form I–9 to reverify employment authorization, or an acceptable List A or List C receipt described in the *Employment Eligibility Verification* (Form I–9) instructions. Your employer is required to reverify on *Employment Eligibility Verification* (Form I–9) the employment authorization of current employees no later than the automatically extended expiration date of a TPS-related EAD, which is May 20, 2017, in this case. Your employer should use either Section 3 of the *Employment Eligibility Verification* (Form I–9) originally completed for you or, if this section has already been completed or if the version of Form I–9 is no longer valid (check the date in the upper right-hand corner of the form), complete Section 3 of a new *Employment Eligibility Verification* (Form I–9) using the most current version. Note that your employer may not specify which List A or List C document employees must present, and cannot reject an acceptable receipt. An acceptable receipt is described in the *Employment Eligibility Verification* (Form I–9) Instructions and includes one that shows an employee has applied to replace a required document that was lost, stolen or damaged.

Can my employer require that I produce any other documentation to prove my current TPS status, such as proof of my Guinean citizenship?

No. When completing *Employment Eligibility Verification* (Form I–9), including reverifying employment authorization, employers must accept any documentation that appears on the "Lists of Acceptable Documents" for *Employment Eligibility Verification* (Form I–9) that reasonably appears to be genuine and that relates to you or an acceptable List A, List B, or List C receipt. Employers may not request documentation that does not appear on the "Lists of Acceptable Documents." Therefore, employers may not request proof of Guinean citizenship or proof of re-registration for TPS when completing *Employment Eligibility Verification* (Form I–9) for new hires or reverifying the employment authorization of current employees. Refer to the "*Note to Employees*" section of this Notice for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin.

What happens after May 20, 2017, for purposes of employment authorization?

After May 20, 2017, employers may no longer accept the EADs that this **Federal Register** Notice automatically extended.

How do my employer and I complete Employment Eligibility Verification (Form I–9) using an automatically extended EAD for a new job?

When using an automatically extended EAD to complete *Employment Eligibility Verification* (Form I–9) for a new job before May 21, 2017, you and your employer should do the following:

1. For Section 1, you should:

a. Check "An alien authorized to work;"

b. Write the automatically extended EAD expiration date (May 20, 2017) in the first space; and

c. Write your alien number (USCIS number or A-number) in the second space (your EAD or other document from DHS will have your USCIS number or A-number printed on it; the USCIS number is the same as your A-number without the A prefix).

2. For Section 2, employers should record the:

a. Document title;

b. Issuing authority;

c. Document number; and

d. Automatically extended EAD expiration date (May 20, 2017).

No later than May 20, 2017, employers must reverify your employment authorization in Section 3 of Employment Eligibility Verification (Form I–9).

What corrections should my current employer and I make to Employment Eligibility Verification (Form I–9) if my EAD has been automatically extended?

If you are an existing employee who presented a TPS-related EAD that was valid when you first started your job, but that EAD has now been automatically extended, your employer may need to reinspect your automatically extended EAD if your employer does not have a photocopy of the EAD on file, and you and your employer should correct your previously completed Form I–9 as follows:

1. For Section 1, you should:

a. Draw a line through the expiration date in the first space;

b. Write "May 20, 2017," above the previous date;

c. Write "TPS Ext." in the margin of Section 1; and

d. Initial and date the correction in the margin of Section 1.

2. For Section 2, employers should:

a. Draw a line through the expiration date written in Section 2;

b. Write "May 20, 2017," above the previous date;

c. Write "EAD Ext." in the margin of Section 2; and

d. Initial and date the correction in the margin of Section 2.

No later than May 20, 2017, when the automatic extension of EADs expires, employers must reverify your employment authorization in Section 3.

As an employer, what are my Employment Eligibility Verification (Form I–9) obligations after May 20, 2017?

Employers are required to reverify an employee's employment authorization in Section 3 of *Employment Eligibility Verification* (Form I–9) by the expiration date of an automatically extended EAD. Your employee must present unexpired documentation from either List A or List C (or an acceptable Form I–9 receipt) showing he or she is still authorized to work. Employers may not ask for specific documents; employees choose which List A or List C documents to present from the Lists of Acceptable Documents.

If I am an employer enrolled in E-Verify, what do I do when I receive a "Work Authorization Documents Expiration" alert for an automatically extended EAD?

If you have an employee who is a TPS beneficiary who provided a TPS-related EAD when he or she first started working for you, you will receive a "Work Authorization Documents Expiring" case alert when the auto-extension period for this EAD is about to expire. E-Verify will not send an alert for the original November 21, 2016, expiration date. By May 20, 2017, employment authorization must be reverified in Section 3. Employers should not use E-Verify for reverification.

Note to All Employers

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This **Federal Register** Notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For general questions about the employment eligibility verification process, employers may call USCIS at 888–464–4218 (TTY 877–875–6028) or email *I-9Central@dhs.gov.* Calls and emails are accepted in English and many other languages. For questions about avoiding discrimination during the employment eligibility verification process, employers may also call the U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) Employer Hotline, at 800–255–8155 (TTY 800–237–2515), which offers language interpretation in numerous languages, or email OSC at *osccrt@usdoj.gov.*

Note to Employees

For general questions about the employment eligibility verification process, you may call USCIS at 888–897–7781 (TTY 877–875–6028) or email *I-9Central@dhs.gov.* Calls are accepted in English and many other languages. You may also call the OSC Worker Information Hotline at 800–255–7688 (TTY 800–237–2515) for information regarding employment discrimination based upon citizenship status, immigration status, or national origin, including discrimination related to Form I–9 and E-Verify. The OSC Worker Information Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the Lists of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee, or an acceptable receipt described in the *Employment Eligibility Verification* (Form I–9) Instructions. Employers may not require extra or additional documentation beyond what is required for *Employment Eligibility Verification*

(Form I–9) completion. Further, employers participating in E-Verify who receive an E-Verify case result of "Tentative Nonconfirmation" (TNC) must promptly inform employees of the TNC and give such employees an opportunity to contest the TNC. A TNC case result means that the information entered into E-Verify from *Employment Eligibility Verification* (Form I–9) differs from Federal or State government records.

Employers may not terminate, suspend, delay training, withhold pay, lower pay, or take any adverse action against you based on your decision to contest a TNC or because the case is still pending with E-Verify. A Final Nonconfirmation (FNC) case result is received when E-Verify cannot verify your employment eligibility. An employer may terminate employment based on a case result of FNC. Work-authorized employees who receive an FNC may call USCIS for assistance at 888–897–7781 (TTY 877–875–6028). If you believe you were discriminated against by an employer in the E-Verify process based on citizenship, immigration status, or national origin, you may contact OSC's Worker Information Hotline at 800–255–7688 (TTY 800–237–2515). Additional information about proper nondiscriminatory *Employment Eligibility Verification* (Form I–9) and E-Verify procedures is available on the OSC Web site at *http://www.justice.gov/crt/about/osc/* and the USCIS Web site at *http://www.dhs.gov/E-verify.*

Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)

While Federal Government agencies must follow the guidelines laid out by the Federal Government, State and local government agencies establish their own rules and guidelines when granting certain benefits. Each State may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a Federal, State, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary and/or show you are authorized to work based on TPS. Examples are:

(1) Your unexpired EAD;

(2) A copy of this **Federal Register** Notice if your EAD is automatically extended under this Notice;

(3) A copy of your Application for Temporary Protected Status Notice of Action (Form I–797);

(4) A copy of your past or current Application for Temporary Protected Status Approval Notice (Form I–797), if you received one from USCIS; and/or

(5) If there is an automatic extension of work authorization, a copy of the fact sheet from the USCIS TPS Web site that provides information on the automatic extension.

Check with the government agency regarding which document(s) the agency will accept. You may also provide the agency with a copy of this **Federal Register** Notice.

Some benefit-granting agencies use the USCIS Systematic Alien Verification for Entitlements Program (SAVE) to confirm the current immigration status of applicants for public benefits. In most cases, SAVE provides an automated electronic response to benefit granting agencies within seconds but occasionally verification can be delayed. You can check the status of your SAVE verification by using CaseCheck at the following link: *https://save.uscis.gov/casecheck/,* then by clicking the "Check Your Case" button. CaseCheck is a free service that lets you follow the progress of your SAVE verification using your date of birth and one immigration identifier number. If such an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted upon or will act upon a SAVE verification and you do not believe the response is correct, you may make an InfoPass appointment for an in-person interview at a local USCIS office. Detailed information on how to make corrections, make an appointment, or submit a written request to correct records under the Freedom of Information Act can be found at the SAVE Web site at *http://www.uscis.gov/save,* then by choosing "For Benefit Applicants" from the menu on the left and selecting "Questions about your Records?".

[FR Doc. 2016–23244 Filed 9–22–16; 4:15 pm]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5919–N–01]

60-Day Notice of Proposed Information Collection: Notice of Proposed Information Collection for Public Comment; Electronic Line of Credit Control System (eLOCCS) System Access

AGENCY: Office of the Chief Financial Officer, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This information collection is required by the Paperwork Reduction Act of 1995. HUD is soliciting public comments on the subject proposal.

DATES: *Comments Due:* November 25, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–5534 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Dan Lam, Management Information Specialist, FYA, Department of Housing and Urban Development, 451 7th Street SW., Room 3204, Washington, DC 20410; email Dan Lam at *Dan.Lam@hud.gov* or telephone 202–402–3705. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Mr. Lam.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Electronic Line of Credit Control System (eLOCCS) System Access.

OMB Approval Number: 2535–0102.

Type of Request: Revision.

Form Number: Form HUD–27054.

Description of the need for the information and proposed use: Payment request vouchers for distribution of grant funds using the Electronic Line of Credit Control System (eLOCCS) System. An authorization form is submitted to establish access to the eLOCCS payment system.

Respondents (i.e. affected public): State or Local Government; Public Housing Agencies (PHAs), Individuals or Households.

Estimated Number of Respondents: 2,420.

Estimated Number of Responses: 2,420.

Frequency of Response: 1.

Average Hours per Response: 0.17.

Total Estimated Burdens: 411 hours, $21,372 total.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
HUD–27054	2,420	1	2,420	0.17	411	$52	$21,372
Total	....	....	....	....	411	52	21,372

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 20, 2016.

Simin D. Narins,

Director, Financial Systems Quality Assurance Division, FYA.

[FR Doc. 2016–23176 Filed 9–23–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5916–C–14]

60-Day Notice of Proposed Information Collection: Family Report, Moving to Work Family Report

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Correction, notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment. This is a correction to the notice that is already published. Please disregard the notice that was published on August 19, 2016 at 81 FR 55475.

DATES: *Comments Due Date:* November 25, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW., (L'Enfant Plaza, Room 2206), Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Mussington.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Family Report, MTW Family Report.

OMB Approval Number: 2577–0083.

Type of Request: Extension of currently approved collection.

Form Number: Form HUD 50058 Family Report, and HUD 50058 MTW Family Report.

Description of the need for the information and proposed use: The Office of Public and Indian Housing of the Department of Housing and Urban Development (HUD) provides funding to Public Housing Agencies (PHAs) to administer assisted housing programs. Form HUD–50058 MTW Family Reports solicit demographic, family profile, income and housing information on the entire nationwide population of tenants residing in assisted housing. The information collected through the Form HUD–50058 MTW will be used to monitor and evaluate the Office of Public and Indian Housing, Moving to Work (MTW) Demonstration program which includes Public Housing, Section 8 Housing Choice Voucher, Section 8 Project Based Certificates and Vouchers, Section 8 Moderate Rehabilitation and Moving to Work (MTW) Demonstration programs.

Tenant data is collected to understand demographic, family profile, income, and housing information for participants in the Public Housing, Section 8 Housing Choice Voucher, Section 8 Project Based Certificate, Section 8 Moderate Rehabilitation, and Moving to Work Demonstration programs. This data also allows HUD to monitor the performance of programs and the performance of public housing agencies that administer the programs.

Reason for PRA

- The current versions of Forms HUD 50058 Family Report and HUD 50058 MTW Family Report are set to expire later this year.
- HUD is seeking to renew Forms HUD 50058 Family Report and HUD 50058 MTW Family Report with no changes.

Members of affected public: Public Housing Agencies, State and local governments, individuals and households.

Information collection	Number of respondents (PHA) (with responses)	*Average number of reponses per respondent (with responses)	Total annual responses	Minutes per response	Total hours	Regulatory reference (24 CFR)
Form HUD–50058 New Admission	4,114	87	355,984	40	237,323	908.101
Form HUD–50058 Recertification	4,114	583	2,398,340	20	799,447	908.101
Form HUD–50058 MTW New Admission	39	529	20,631	40	13,754	908.101
Form HUD–50058 MTW Recertification	39	4,018	156,702	20	52,234	908.101

4,153; Total Responses: 2,908,469; Total Hours: 1,092,656.

*Average Number of Responses per Respondents = Total Annual Responses/Number of Respondents

Estimated annualized hourly cost to respondents (PHA); Form HUD–50058: To report using Form HUD–50058 Family Report, it will cost the average PHA $1,000.04 annually to enter and submit all data for New Admission and $3,368.73 annually for Recertification.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(2) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 7, 2016.

Danielle Bastarache,

Deputy Assistant Secretary, Office of Policy, Programs and Legislative Initiatives.

[FR Doc. 2016–23000 Filed 9–23–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–68]

30-Day Notice of Proposed Information Collection: Veterans Home Rehabilitation Program

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* October 26, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax:202–395–5806, Email: *OIRA Submission@omb.eop.gov.*

Anna Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna P. Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on June 20, 2016 at 81 FR 39944.

A. Overview of Information Collection

Title of Information Collection: Veterans Home Rehabilitation Program.

OMB Approval Number: 2506—New.

Type of Request: New collection of information.

Form Number: SF–424; HUD 424–CB; HUD 424–CBW; SF–LLL; HUD 2880; HUD–2990; HUD 2991; HUD 2993; HUD 2994A; HUD 27061; and HUD 27300.

Description of the need for the information and proposed use: The purpose of this submission is for applications for the Veterans Home Rehabilitation Program grant process. The Veterans Home Rehabilitation program is funded by the Consolidated Appropriations Act of 2016, Section 1079 (Pub. L. 113–291). Information is required to rate and rank competitive applications and to ensure eligibility of applicants for funding. Quarterly reporting is required to monitor grant management.

Instruments	Respondents	Annual responses	Total responses	Burden per response	Total annual hours	Hourly rate **	Burden cost per instrument
HUD–424CB	200	1	200	2.60	520.00	25.00	13,000.00
HUD–424CBW–I	200	1	200	3.20	640.00	25.00	16,000.00
HUD–2880	200	1	200	2.00	400.00	25.00	10,000.00
HUD–2990	200	1	200	0.00	0.00	00.00	00.00
HUD–2991	200	1	200	0.00	0.00	00.00	00.00
HUD–2993	200	1	200	0.00	0.00	00.00	00.00
HUD–2994A	200	1	200	0.50	100.00	25.00	2,500.00
HUD–27061	200	1	200	1.25	250.00	25.00	6,250.00
HUD–27300	200	1	200	3.00	600.00	25.00	15,00.00
Total					2,510.00	25.00	62,750.00

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 19, 2016.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2016–23173 Filed 9–23–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5913–N–30]

60-Day Notice of Proposed Information Collection: FHA-Insured Mortgage Loan Servicing of Payments, Prepayments, Terminations, Assumptions and Transfers

AGENCY: Office of the Assistant Secretary for Housing- Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date: November 25, 2016.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Ivery W. Himes, Director, Office of Single Family Asset Management, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Ivery W. Himes at *Ivery.W.Himes@hud.gov* or telephone 202–708–1672, option 3. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Himes.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: FHA-Insured Mortgage Loan Servicing of Payments, Prepayments, Terminations, Assumptions and Transfers.

OMB Approval Number: 2502–0595.

Type of Request: Revision of currently approved collection.

Form Numbers: HUD–92210.1, Approval of Purchaser and Release of Seller,

HUD–922210, Request for Credit Approval of Substitute Mortgagor.

Description of the need for the information and proposed use:

FHA insurance is an important source of mortgage credit for low and moderate-income borrowers. It is essential that the Federal Housing Administration (FHA) maintain a healthy mortgage insurance fund through premiums charged to the borrower by FHA. Providing policy and guidance to the single family housing mortgage industry regarding changes in FHA's program is essential to protect the fund. The information requests referred to in this PRA submission is to provide information to support HUD's policy and guidance.

Respondents: Servicers of FHA-insured mortgages.

Estimated Number of Respondents: 357.

Estimated Number of Responses: 97,254,206.

Frequency of Response: On occasion.

Average Hours per Response: 15 minutes to 3 hours depending on the activity.

Total Estimated Burdens: 67,964 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 20, 2016.

Janet M. Golrick,

Associate General Deputy Assistant Secretary for Housing Associate Deputy Federal Housing Commissioner.

[FR Doc. 2016–23001 Filed 9–23–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5913–N–29]

60-Day Notice of Proposed Information Collection: Financial Statement of Corporate Application for Cooperative Housing Mortgage

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* November 25, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Daniel J. Sullivan, Acting Director, Office of Multifamily Productions, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Daniel.J.Sullivan@hud.gov* or telephone 202–402–6130. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Collette Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Financial Statement of Corporate Application for Cooperative Housing Mortgage.

OMB Approval Number: 2502–0058.

Type of Request: Extension of currently approved collection.

Form Number: HUD–93232A.

Description of the need for the information and proposed use: Information is a critical element and the source document by which HUD determines the cooperative member and group capacity to meet the statutory requirements. Credit reports on the individual members and their personal financial statements are submitted on form HUD–93232–A in order to determine their credit standing, ability to pay and stability of employment.

Respondents (*i.e.* affected public): 13.

Estimated Number of Respondents: 13.

Estimated Number of Responses: 13.

Frequency of Response: 1.

Average Hours per Response: 1.

Total Estimated Burden: 13.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 6, 2016.

Genger Charles,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 2016–22999 Filed 9–23–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5910–N–16]

60-Day Notice of Proposed Information Collection: Recordkeeping for HUD's Continuum of Care Program

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* November 25, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone (202) 402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Norm Suchar, Director, Office of Special

Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7262, Washington, DC 20410; telephone (202) 708–5015 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Recordkeeping for HUD's Continuum of Care Program.

OMB Approval Number: 2506–0199.

Type of Request: Extension.

Form Number: N/A.

Description of the Need for the Information and Proposed Use: This submission is to request an extension of an Existing Collection in use with an OMB Control Number for the Recordkeeping for HUD's Continuum of Care Program. Continuum of Care program recipients will be expected to implement and retain the information collection for the recordkeeping requirements. The statutory provisions and implementing interim regulations govern the Continuum of Care Program recordkeeping requirements for recipient and subrecipients and the standard operating procedures for ensuring that Continuum of Care Program funds are used in accordance with the program requirements. To see the regulations for the new CoC program and applicable supplementary documents, visit HUD's Homeless Resource Exchange at *https://www.onecpd.info/resource/2033/hearth-coc-program-interim-rule/.*

Respondents (i.e. affected public): Continuum of Care program recipients and subrecipients.

Estimated Number of Respondents: The CoC record keeping requirements include 45 distinct activities. Each activity requires a different number of respondents ranging from 10 to 350,000. There are 366,500 unique respondents.

Estimated Number of Responses: 3,968,075.

Frequency of Response: Each activity has a unique frequency of response, ranging from once to 200 times annually.

Average Hours per Response: Each activity also has a unique associated number of hours of response, ranging from 15 minutes to 180 hours.

Total Estimated Burdens: The total number of hours needed for all reporting is 1,921,711 hours.

A	B	C	D	E	F		
Information Collection	Number of respondents	Frequency of response	Responses per annum	Burden hours per response	Annual burden hours	Hourly cost per response ($)	Annual cost ($)
§ 578.5(a) Establishing the CoC	450	1	450	8	3,600	37.13	133,668.00
§ 578.5(b) Establishing the Board	450	1	450	5	2,250	37.13	83,542.50
§ 578.7(a)(1) Hold CoC Meetings	450	2	900	4	3,600	37.13	133,668.00
§ 578.7(a)(2) Invitation for New Members	450	1	450	1	450	37.13	16,708.50
§ 578.7(a)(4) Appoint committees	450	2	900	0.5	450	37.13	16,708.50
§ 578.7(a)(5) Governance charter	450	1	450	7	3,150	37.13	116,959.50
§ 578.7(a)(6) and (7) Monitor performance and evaluation	450	4	450	9	4,050	37.13	150,376.50
§ 578.7(a)(8) Centralized or coordinated assessment system	450	1	450	8	3,600	37.13	133,668.00
§ 578.7(a)(9) Written standards	450	1	450	5	2,250	37.13	83,542.50
§ 578.7(b) Designate HMIS	450	1	450	10	4,500	37.13	167,085.00
§ 578.9 Application for funds	450	1	450	180	81,000	37.13	3,007,530.00
§ 578.11(c) Develop CoC plan	450	1	450	9	4,050	37.13	150,376.50
§ 578.21(c) Satisfying conditions	8,000	1	8,000	4	32,000	37.13	1,188,160.00
§ 578.23 Executing grant agreements	8,000	1	8,000	1	8,000	37.13	297,040.00
§ 578.35(b) Appeal—solo	10	1	10	4	40	37.13	1,485.20
§ 578.35(c) Appeal—denied or decreased funding	15	1	15	1	15	37.13	556.95
§ 578.35(d) Appeal—competing CoC	10	1	10	5	50	37.13	1,856.50
§ 578.35(e) Appeal—Consolidated Plan certification	5	1	5	2	10	37.13	371.30
§ 578.49(a)—Leasing exceptions	5	1	5	1.5	7.5	37.13	278.48
§ 578.65 HPC Standards	20	1	20	10	200	37.13	7,426.00
§ 578.75(a)(1) State and local requirements—appropriate service provision	7,000	1	7,000	0.5	3,500	37.13	129,955.00
§ 578.75(a)(1) State and local requirements—housing codes	20	1	20	3	60	37.13	2,227.80
§ 578.75(b) Housing quality standards	72,800	2	145,600	1	145,600	37.13	5,406,128.00
§ 578.75(b) Suitable dwelling size	72,800	2	145,600	0.08	11,648	37.13	432,490.24
§ 578.75(c) Meals	70,720	1	70,720	0.5	35,360	37.13	1,312,916.80
§ 578.75(e) Ongoing assessment of supportive services	8,000	1	8,000	1.5	12,000	37.13	445,560.00
§ 578.75(f) Residential supervision	6,600	3	19,800	0.75	14,850	37.13	551,380.50
§ 578.75(g) Participation of homeless individuals	11,500	1	11,500	1	11,500	37.13	426,995.00
§ 578.75(h) Supportive service agreements	3,000	100	30,000	0.5	15,000	37.13	556,950.00

A	B	C	D	E	F		
Information Collection	Number of respondents	Frequency of response	Responses per annum	Burden hours per response	Annual burden hours	Hourly cost per response ($)	Annual cost ($)
§ 578.77(a) Signed leases/occupancy agreements	104,000	2	208,000	1	208,000	37.13	7,723,040.00
§ 578.77(b) Calculating occupancy charges	1,840	200	368,000	0.75	276,000	37.13	10,247,880.00
§ 578.77(c) Calculating rent	2,000	200	400,000	0.75	300,000	37.13	11,139,000.00
§ 578.81(a) Use restriction	20	1	20	0.5	10	37.13	371.30
§ 578.91(a) Termination of assistance	400	1	400	4	1,600	37.13	59,408.00
§ 578.91(b) Due process for termination of assistance	4,500	1	4,500	3	13,500	37.13	501,255.00
§ 578.95(d)—Conflict-of-Interest exceptions	10	1	10	3	30	37.13	1,113.90
§ 578.103(a)(3) Documenting homelessness	300,000	1	300,000	0.25	75,000	37.13	2,784,750.00
§ 578.103(a)(4) Documenting at risk of homelessness	10,000	1	10,000	0.25	2,500	37.13	92,825.00
§ 578.103(a)(5) Documenting imminent threat of harm	200	1	200	0.5	100	37.13	3,713.00
§ 578.103(a)(7) Documenting program participant records	350,000	6	2,100,000	0.25	525,000	37.13	19,493,250.00
§ 578.103(a)(7) Documenting case management	8,000	12	96,000	1	96,000	37.13	3,564,480.00
§ 578.103(a)(13) Documenting faith-based activities	8,000	1	8,000	1	8,000	37.13	297,040.00
§ 578.103(b) Confidentiality procedures	11,500	1	11,500	1	11,500	37.13	426,995.00
§ 578.105(a) Grant/project changes—UFAs	20	2	40	2	80	37.13	2,970.40
§ 578.105(b) Grant/project changes—multiple project applicants	800	1	800	2	1,600	37.13	59,408.00
Total	366,500	....	3,968,075	....	1,921,711	....	71,353,110.87

Annualized Cost @$37.13/hr (GS–12): $71,353,110.87.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 11, 2016.

Harriet Tregoning,

Principal Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2016–23004 Filed 9–23–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5979–N–01]

Notice of Web Availability: Memorandum of Understanding Regarding U.S. Department of Housing and Urban Development Compliance With the National Environmental Policy Act and Related Laws and Authorities

AGENCY: Office of Environment and Energy, HUD.

ACTION: Notice.

SUMMARY: Today's notice announces that HUD has posted on its Web site its Memorandum of Understanding (MOU) regarding HUD compliance with the National Environmental Policy Act (NEPA) and related laws and authorities.

FOR FURTHER INFORMATION CONTACT: Jim Potter, Office of Environment and Energy, Department of Housing and Urban Development, 451 7th Street SW., Room 7212, Washington, DC 20410; telephone number 202–708–4225 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: Today's notice announce that HUD has posted on its Web site its "Memorandum of Understanding (MOU) Regarding U.S. Department of Housing and Urban Development Compliance with the National Environmental Policy Act (NEPA) and Related Laws and Authorities".

A core mission of HUD is to provide housing in a safe, suitable and healthy environment, and this mission is accomplished in large measure through environmental compliance with NEPA. NEPA ensures that a project's impacts on the environment, as well as the environment's impacts on the residents, are considered in a transparent manner before decisions are made.

The purpose of the MOU is to outline the respective roles and responsibilities of HUD program offices to ensure HUD compliance with NEPA and related laws and authorities, and HUD's implementing regulations of 24 CFR parts 50, 51, 55, and 58. The MOU defines the roles and responsibilities of the parties involved in HUD's environmental review process, establishes a governance structure to address environmental compliance issues, and clarifies procedural mechanisms to ensure and evaluate compliance.

The MOU establishes an internal governance structure to address environmental compliance issues with regional, national, and executive committees. Issues can be raised at each level and elevated as necessary to create a more efficient review process. Mechanisms to maintain and monitor environmental compliance are included in the MOU. HUD will develop a management program to evaluate program office compliance with environmental review requirements. These procedures will be used to identify and solve internal issues of compliance.

The MOU can be found on the Department of Housing and Urban Development's Web site at *https://www.hudexchange.info/resource/5142/hud-nepa-compliance-mou/.*

Dated: September 20, 2016.

Danielle L. Schopp,

Director Office of Environment and Energy.

[FR Doc. 2016–23014 Filed 9–23–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5915–N–11]

60-Day Notice of Proposed Information Collection: Family Options Study: Long-Term Tracking

AGENCY: Office of Policy Development & Research, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* November 25, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone (202) 402–5534 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone (202) 402–5535. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Family Options Study: Long-Term Tracking.

OMB Approval Number: 2528–0259.

Type of Request: Revision of currently approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: The purpose of this proposed information collection is to continue tracking the families that enrolled in the U.S. Department of Housing and Urban Development's (HUD) Family Options Study between September 2010 and January 2012. The Family Options Study is a multi-site experiment designed to test the impacts of different housing and services interventions on homeless families in five key domains: Housing stability, family preservation, adult well-being, child well-being, and self-sufficiency. Families who enrolled in the Family Options Study were actively tracked for a minimum of three years after their enrollment into the study; the last outreach to families took place between March 2014 and March 2015. Both the design and the scale of the study provides a strong basis for conclusions about the relative impacts of the interventions over time; both the short-term (20 month) and long-term (37-month) impacts from this study yielded powerful evidence regarding the impact of a non-time-limited housing subsidy. It is possible, though, that some effects of the various interventions might take longer to emerge, particularly for child well-being. Therefore, HUD wishes to maintain contact with the sample of families in order to observe the longer-term effects of the interventions in a limited set of measures, and to assess the feasibility of an additional round of data collection in the future.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Informed Consent	2,271	1	2,271	.17 hours (10 minutes)	378.5	$10.15	$3,842
Tracking Interview	2,271	1	2,271	.25 hours (15 minutes)	568	10.15	5,762
Total	....	....	....	....	946.5	....	9,604

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of

information technology, *e.g.*, permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 12, 2016.

Katherine M. O'Regan,

Assistant Secretary, Office of Policy Development and Research.

[FR Doc. 2016–23018 Filed 9–23–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[167 A2100DD/AAKC001030/ A0A501010.999900]

Indian Gaming; Extension of Tribal-State Class III Gaming Compact (Rosebud Sioux Tribe and the State of South Dakota)

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces the extension of the Class III gaming compact between the Rosebud Sioux Tribe and the State of South Dakota.

DATES: September 26, 2016.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Assistant Secretary—Indian Affairs, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Pursuant to 25 CFR 293.5, an extension to an existing Tribal-State Class III gaming compact does not require approval by the Secretary if the extension does not modify any other terms of the compact. The Rosebud Sioux Tribe and the State of South Dakota have reached an agreement to extend the expiration of their existing Tribal-State Class III gaming compact until February 1, 2017. This publishes notice of the new expiration date of the compact.

Dated: September 20, 2016.

Lawrence R. Roberts,

Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 2016–23214 Filed 9–23–16; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[16X; LLIDB00100.LF1000000.HT0000. LXSS024D0000.241A00.4500091464]

Notice of Public Meeting Tri-State Fuel Break Joint Subcommittee of the Boise and Southeast Oregon Resource Advisory Councils to the Boise and Vale Districts

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Tri-State Fuel Break Project Joint Subcommittee of the Boise District and Southeast Oregon Resource Advisory Councils (RACs) will hold a meeting on October 5, 2016. The meeting will be held at the Boise District Office located at 3948 S. Development Avenue, Boise, ID 83705, will begin at 9:00 a.m. and adjourn by 3:00 p.m. Members of the public are invited to attend. A public comment period will be held.

FOR FURTHER INFORMATION CONTACT: Seth Flanigan, Boise District RAC Coordinator, 3948 S. Development Avenue, Boise, Idaho, 83705, (208) 384–3393.

SUPPLEMENTARY INFORMATION: The Tri-State Fuel Break Joint Subcommittee advises the Boise District and Southeast Oregon Resource Advisory Councils (RACs) on potential areas to locate fuel breaks for the proposed Tri-State Fuel Break Project and Environmental Impact Statement (EIS). The RACs advise the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Idaho and Oregon. The joint subcommittee will be discussing potential fuel break locations within the proposed project area during the meeting. Agenda items and location may change due to changing circumstances. The public may present written or oral comments to members of the joint subcommittee. Individuals who plan to attend and need special assistance should contact the BLM Coordinator as provided above. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours. Additional information about the RACs is available at *www.blm.gov/id/st/en/res/resource_advisory.3.html.*

Dated: September 19, 2016.

Lara Douglas,

Boise District Manager,

Shane DeForest,

Vale Associate District Manager.

[FR Doc. 2016–23079 Filed 9–23–16; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR04084000, XXXR4081X1, RN.20350010.REG0000]

Colorado River Basin Salinity Control Advisory Council Notice of Public Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Colorado River Basin Salinity Control Advisory Council (Council) was established by the Colorado River Basin Salinity Control Act of 1974 (Pub. L. 93–320) (Act) to receive reports and advise Federal agencies on implementing the Act. In accordance with the Federal Advisory Committee Act, the Bureau of Reclamation announces that the Council will meet as detailed below. The meeting of the Council is open to the public.

DATES: The Council will convene the meeting on Wednesday, October 26, 2016, at 1:00 p.m. and adjourn at approximately 5:00 p.m. The Council will reconvene the meeting on Thursday, October 27, 2016, at 8:30 a.m. and adjourn the meeting at approximately 11:00 a.m.

ADDRESSES: The meeting will be held at the Moab Arts & Recreation Center, 111 East 100 North, Moab, Utah. Send written comments to Mr. Kib Jacobson, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 8100, Salt Lake City, Utah 84138–1147; telephone (801) 524–3753; facsimile (801) 524–3847; email at: *kjacobson@usbr.gov.*

FOR FURTHER INFORMATION CONTACT: Kib Jacobson, telephone (801) 524–3753; facsimile (801) 524–3847; email at: *kjacobson@usbr.gov.*

SUPPLEMENTARY INFORMATION: Any member of the public may file written statements with the Council before, during, or up to 30 days after the meeting either in person or by mail. To the extent that time permits, the Council chairman will allow public presentation of oral comments at the meeting. To allow full consideration of information by Council members, written notice must be provided at least 5 days prior to the meeting. Any written comments received prior to the meeting will be provided to Council members at the meeting.

The purpose of the meeting is to discuss the accomplishments of Federal agencies and make recommendations on future activities to control salinity. Council members will be briefed on the status of salinity control activities and receive input for drafting the Council's annual report. The Bureau of Reclamation, Bureau of Land Management, U.S. Fish and Wildlife Service, and United States Geological Survey of the Department of the Interior; the Natural Resources Conservation Service of the Department of Agriculture; and the Environmental Protection Agency will each present a progress report and a schedule of activities on salinity control in the Colorado River Basin. The Council will discuss salinity control activities, the contents of the reports, and the Basin States Program created by Public Law 110–246, which amended the Act.

Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in your comment, please be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 9, 2016.

Brent Rhees,

Regional Director, Upper Colorado Region.

[FR Doc. 2016–23080 Filed 9–23–16; 8:45 am]

BILLING CODE 4332–90–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0040]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Application for an Amended Federal Firearms License (ATF F 5300.38)

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** 81 *FR* 45534, on July 14, 2016, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until October 26, 2016.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Tracey Robertson, Chief, Federal Firearms Licensing Center, 244 Needy Road, Martinsburg, WV 25405 at email or telephone: *Tracey.Robertson@atf.gov* or (304) 616–4647. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension, without change, of a currently approved collection.

2. *The Title of the Form/Collection:* Application for an Amended Federal Firearms License.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF F 5300.38.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: None.

Abstract: The Gun Control Act requires that each person applying for a Federal Firearms License (FFL) change of address must certify compliance with the provisions of the law for the new address. The ATF F 5300.38, Application for an Amended Federal Firearms License is the application method used by existing Federal Firearms licensees to change the business address of the license and certify compliance. Licensees are required to notify ATF of the intent to move any business premises no later than 30 days prior to the intended move.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 18,000 respondents will take 30 minutes to complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 9,000 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution

Square, 145 N Street NE., Room 3E–405B, Washington, DC 20530.

Dated: September 20, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–23006 Filed 9–23–16; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Cerilliant Corporation

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before November 25, 2016.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODXL, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on July 28 2015, Cerilliant Corporation, 811 Paloma Drive, Suite A, Round Rock, Texas 78665–2402, applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
3-Fluoro-N-methylcathinone (3–FMC)	1233	I
Cathinone	1235	I
Methcathinone	1237	I
4-Fluoro-N-methylcathinone (4–FMC)	1238	I
Pentedrone (α-methylaminovalerophenone)	1246	I
Mephedrone (4-Methyl-N-methylcathinone)	1248	I
4-Methyl-N-ethylcathinone (4–MEC)	1249	I
Naphyrone	1258	I
N-Ethylamphetamine	1475	I
N,N-Dimethylamphetamine	1480	I
Fenethylline	1503	I
Aminorex	1585	I
4-Methylaminorex (cis isomer)	1590	I
Gamma Hydroxybutyric Acid	2010	I
Methaqualone	2565	I
JWH–250 (1-Pentyl-3-(2-methoxyphenylacetyl) indole)	6250	I
SR–18 (Also known as RCS–8) (1-Cyclohexylethyl-3-(2-methoxyphenylacetyl) indole)	7008	I
5-Flouro-UR–144 and XLR11 [1-(5-Fluoro-pentyl)1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone	7011	I
AB–FUBINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7012	I
JWH–019 (1-Hexyl-3-(1-naphthoyl)indole)	7019	I
AB–PINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7023	I
THJ–2201 [1-(5-fluoropentyl)-1H-indazol-3-l](naphthalen-1-yl)methanone	7024	I
AB–CHMINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide	7031	I
ADB–PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7035	I
APINACA and AKB48 N-(1-Adamantyl)-1-pentyl-1H-indazole-3-carboxamide	7048	I
JWH–081 (1-Pentyl-3-(1-(4-methoxynaphthoyl) indole)	7081	I
SR–19 (Also known as RCS–4) (1-Pentyl-3-[(4-methoxy)-benzoyl] indole	7104	I
JWH–018 (also known as AM678) (1-Pentyl-3-(1-naphthoyl)indole)	7118	I
JWH–122 (1-Pentyl-3-(4-methyl-1-naphthoyl) indole)	7122	I
UR–144 (1-Pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone	7144	I
JWH–073 (1-Butyl-3-(1-naphthoyl)indole)	7173	I
JWH–200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole)	7200	I
AM2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl) indole)	7201	I
JWH–203 (1-Pentyl-3-(2-chlorophenylacetyl) indole)	7203	I
PB–22 (Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate)	7222	I
5F–PB–22 (Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate)	7225	I
Alpha-ethyltryptamine	7249	I
CP–47,497 (5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl-phenol)	7297	I
CP–47,497 C8 Homologue (5-(1,1-Dimethyloctyl)-2-[(1R,3S)3-hydroxycyclohexyl-phenol)	7298	I
Lysergic acid diethylamide	7315	I
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (2C–T–7)	7348	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Parahexyl	7374	I
Mescaline	7381	I
2-(4-Ethylthio-2,5-dimethoxyphenyl) ethanamine (2C–T–2)	7385	I
3,4,5-Trimethoxyamphetamine	7390	I
4-Bromo-2,5-dimethoxyamphetamine	7391	I
4-Bromo-2,5-dimethoxyphenethylamine	7392	I
4-Methyl-2,5-dimethoxyamphetamine	7395	I

Controlled substance	Drug code	Schedule
2,5-Dimethoxyamphetamine	7396	I
JWH–398 (1-Pentyl-3-(4-chloro-1-naphthoyl) indole)	7398	I
2,5-Dimethoxy-4-ethylamphetamine	7399	I
3,4-Methylenedioxyamphetamine	7400	I
5-Methoxy-3,4-methylenedioxyamphetamine	7401	I
N-Hydroxy-3,4-methylenedioxyamphetamine	7402	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
3,4-Methylenedioxymethamphetamine	7405	I
4-Methoxyamphetamine	7411	I
5-Methoxy-N–N-dimethyltryptamine	7431	I
Alpha-methyltryptamine	7432	I
Bufotenine	7433	I
Diethyltryptamine	7434	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I
5-Methoxy-N,N-diisopropyltryptamine	7439	I
N-Ethyl-1-phenylcyclohexylamine	7455	I
1-(1-Phenylcyclohexyl)pyrrolidine	7458	I
1-[1-(2-Thienyl)cyclohexyl]piperidine	7470	I
N-Benzylpiperazine	7493	I
4-Methyl-alphapyrrolidinopropiophenone (4-MePPP)	7498	I
2-(2,5-Dimethoxy-4-methylphenyl) ethanamine (2C–D)	7508	I
2-(2,5-Dimethoxy-4-ethylphenyl) ethanamine (2C–E)	7509	I
2-(2,5-Dimethoxyphenyl) ethanamine (2C–H)	7517	I
2-(4-Iodo-2,5-dimethoxyphenyl) ethanamine (2C–I)	7518	I
2-(4-Chloro-2,5-dimethoxyphenyl) ethanamine (2C–C)	7519	I
2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine (2C–N)	7521	I
2-(2,5-Dimethoxy-4-(n)-propylphenyl) ethanamine (2C–P)	7524	I
2-(4-Isopropylthio)-2,5-dimethoxyphenyl) ethanamine (2C–T–4)	7532	I
MDPV (3,4-Methylenedioxypyrovalerone)	7535	I
2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25B–NBOMe)	7536	I
2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25C–NBOMe)	7537	I
2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25I–NBOMe)	7538	I
Methylone (3,4-Methylenedioxy-N-methylcathinone)	7540	I
Butylone	7541	I
Pentylone	7542	I
alpha-pyrrolidinopentiophenone (α-PVP)	7545	I
alpha-pyrrolidinobutiophenone (α-PBP)	7546	I
AM–694 (1-(5-Fluoropentyl)-3-(2-iodobenzoyl) indole)	7694	I
Acetyldihydrocodeine	9051	I
Benzylmorphine	9052	I
Codeine-N-oxide	9053	I
Desomorphine	9055	I
Codeine methylbromide	9070	I
Dihydromorphine	9145	I
Heroin	9200	I
Hydromorphinol	9301	I
Methyldesorphine	9302	I
Methyldihydromorphine	9304	I
Morphine methylbromide	9305	I
Morphine methylsulfonate	9306	I
Morphine-N-oxide	9307	I
Normorphine	9313	I
Pholcodine	9314	I
AH–7921 (3,4-dichloro-N-[(1-dimethylamino) cyclohexylmethyl)]benzamide	9551	I
Acetylmethadol	9601	I
Allylprodine	9602	I
Alphacetylmethadol except levo-alphacetylmethadol	9603	I
Alphameprodine	9604	I
Alphamethadol	9605	I
Betacetylmethadol	9607	I
Betameprodine	9608	I
Betamethadol	9609	I
Betaprodine	9611	I
Dipipanone	9622	I
Hydroxypethidine	9627	I
Noracymethadol	9633	I
Norlevorphanol	9634	I
Normethadone	9635	I
Trimeperidine	9646	I
Phenomorphan	9647	I
1-Methyl-4-phenyl-4-propionoxypiperidine	9661	I
Tilidine	9750	I

Controlled substance	Drug code	Schedule
Para-Fluorofentanyl	9812	I
3-Methylfentanyl	9813	I
Alpha-methylfentanyl	9814	I
Acetyl-alpha-methylfentanyl	9815	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)	9821	I
Butyryl Fentanyl	9822	I
Beta-hydroxyfentanyl	9830	I
Beta-hydroxy-3-methylfentanyl	9831	I
Alpha-methylthiofentanyl	9832	I
3-Methylthiofentanyl	9833	I
Thiofentanyl	9835	I
Beta-hydroxythiofentanyl	9836	I
Amphetamine	1100	II
Methamphetamine	1105	II
Lisdexamfetamine	1205	II
Phenmetrazine	1631	II
Methylphenidate	1724	II
Amobarbital	2125	II
Pentobarbital	2270	II
Secobarbital	2315	II
Glutethimide	2550	II
Nabilone	7379	II
1-Phenylcyclohexylamine	7460	II
Phencyclidine	7471	II
4-Anilino-N-phenethyl-4-piperidine (ANPP)	8333	II
1-Piperidinocyclohexanecarbonitrile	8603	II
Alphaprodine	9010	II
Cocaine	9041	II
Codeine	9050	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Diphenoxylate	9170	II
Ecgonine	9180	II
Ethylmorphine	9190	II
Hydrocodone	9193	II
Levomethorphan	9210	II
Levorphanol	9220	II
Isomethadone	9226	II
Meperidine	9230	II
Meperidine intermediate-A	9232	II
Meperidine intermediate-B	9233	II
Meperidine intermediate-C	9234	II
Metazocine	9240	II
Noroxymorphone	9250	II
Methadone intermediate	9254	II
Dextropropoxyphene, bulk (non-dosage forms)	9273	II
Morphine	9300	II
Thebaine	9333	II
Levo-alphacetylmethadol	9648	II
Oxymorphone	9652	II
Noroxymorphone	9668	II
Racemethorphan	9732	II
Alfentanil	9737	II
Remifentanil	9739	II
Sufentanil	9740	II
Carfentanil	9743	II
Tapentadol	9780	II
Fentanyl	9801	II

The company plans to manufacture small quantities of the listed controlled substances to make reference standards which will be distributed to its customers.

Dated: September 19, 2016.

Louis L. Milione,

Deputy Assistant Administrator.

[FR Doc. 2016–23019 Filed 9–23–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Catalent CTS, LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before October 26, 2016. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before October 26, 2016.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA **Federal Register** Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control ("Deputy Assistant Administrator") pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on May 6, 2016, Catalent CTS., LLC., 10245 Hickman Mills Drive, Kansas City, Missouri 64137 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid.	2010	I
Marihuana	7360	I

The company plans to import finished dosage unit products containing gamma-hydroxybutyric acid and cannabis extracts for clinical trial studies.

These cannabis extracts compounds are listed under drug code 7360. No other activity for this drug code is authorized for this registration. Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under to 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA approved or non-approved finished dosage forms for commercial sale.

Dated: September 19, 2016.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2016–23017 Filed 9–23–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0048]

Agency Information Collection Activities; Proposed Collection, Comments Requested; Extension of a Currently Approved Collection; Cargo Theft Incident Report

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division will be submitting the following Information Collection Request to the Office of Management and Budget (OMB) for review and clearance in accordance with the established review procedures of the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** at 81 *FR* 47178, on July 20, 2016, allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until October 26, 2016.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Mr. Samuel Berhanu, Unit Chief, Federal Bureau of Investigation, CJIS Division, Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; facsimile (304) 625–3566. Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *The Title of the Form/Collection:* Cargo Theft Incident Report.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number: 1110–0048 Sponsor: Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: City, county, state, federal, and tribal law enforcement agencies.

Abstract: This collection is needed to collect information on cargo theft incidents committed throughout the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 18,439 law enforcement agency respondents that submit monthly for a total of 221,268 responses with an estimated response time of 5 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with this collection:* There are approximately 18,439 hours, annual burden, associated with this information collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE., Room 3E–405B, Washington, DC 20530.

Dated: September 20, 2016.

Jerri Murray,

Department Clearance Officer for PRA, United States Department of Justice.

[FR Doc. 2016–23007 Filed 9–23–16; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–91,562]

Halliburton Energy Services, 2600 S. 2nd Street, Duncan, Oklahoma; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated June 22, 2016, workers requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for worker adjustment assistance applicable to workers and former workers of Halliburton Energy Services, 2600 S. 2nd Street, Duncan, Oklahoma. The determination was issued on May 22, 2016.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a negative determination based on the findings that increased imports of oil and natural gas did not contribute importantly to the separations at Halliburton Energy Services, the firm did not shift the production of oil or natural gas to a foreign country or acquire oil or natural gas from a foreign country. Furthermore, the firm was not a Supplier or Downstream Producer to a firm whose workers were certified eligible to apply for Trade Adjustment Assistance and the firm was not publicly named by the International Trade Commission as a part of a domestic industry in an affirmative finding of serious injury, market disruption, or material injury, or threat thereof.

The request for reconsideration asserts that workers in the same location are receiving the same benefits.

The Department of Labor has carefully reviewed the request for reconsideration and the existing record, and has determined that the Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 22nd day of August, 2016.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2016–23025 Filed 9–23–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–91,258; TA–W–91,258A; TA–W–91,258B]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

International Business Machines (IBM), Global Technology Services (GTS), Including On-Site Leased Workers From Collabera, Apc Workforce Solutions, Artech, CDI, and Infinite, Denver, Colorado;

International Business Machines (IBM), Global Technology Services (GTS), Including On-Site Leased Workers From Collabera, Artech, CDI, and Infinite, Endicott, New York;

International Business Machines (IBM), Global Technology Services (GTS), Including On-Site Leased Workers From Collabera, Artech, CDI, and Infinite, Omaha, Nebraska

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 20, 2016, applicable to workers of International Business Machines (IBM), Global Technology Services (GTS) division, including on-site leased workers from Collabera, APC Workforce Solutions, Artech, CDI, and Infinite, Denver, Colorado (TA–W–91258) (herein known as "IBM—GTS"). The Department's notice of determination was published in the **Federal Register** on March 24, 2016 (81 FR 15748).

During the investigation, it was revealed that the worker group for TA–W–91,870 and TA–W–91,258 belong to the same subject firm. As a result, the Department reviewed the certification for workers of the subject firm. The workers at the subject firm were engaged in activities related to the supply of information technology services (storage engineering, middleware database, and server administration) for a client's account.

The investigation confirmed that worker separations at International Business Machines (IBM), Global Technology Services (GTS) division, including on-site leased workers from Collabera, Artech, CDI, and Infinite, Endicott, New York (TA–W–91258A) and International Business Machines (IBM), Global Technology Services (GTS) division, including on-site leased workers from Collabera, Artech, CDI, and Infinite, Omaha, Nebraska (TA–W–91258B) were due to an acquisition of services from a foreign country.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by the shift in services from a foreign country the supply of services that is like or directly competitive to the services supplied by the workers of the subject firm.

The amended notice applicable to TA–W–91,258, TA–W–91,258A, and TA–W–91,350B is hereby issued as follows:

All workers from International Business Machines (IBM), Global Technology Services (GTS) division, including on-site leased workers from Collabera, APC Workforce Solutions, Artech, CDI, and Infinite, Denver, Colorado (TA–W–91258); International Business Machines (IBM), Global Technology Services (GTS) division, including on-site leased workers from Collabera, Artech, CDI, and Infinite, Endicott, New York (TA–W–91258A); and International Business Machines (IBM), Global Technology Services (GTS) division, including on-site leased workers from Collabera, Artech, CDI, and Infinite, Omaha, Nebraska (TA–W–91258B) who became totally or partially separated from employment on or after December 22, 2014 through February 20, 2018, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 22nd day of August 2016.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2016–23028 Filed 9–23–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, no later than October 6, 2016.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 6, 2016.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 11th day of August 2016.

Jessica R. Webster,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[48 TAA petitions instituted between 7/25/16 and 8/5/16]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
92047	TechMahindra (State/One-Stop)	Overland Park, KS	07/25/16	07/25/16
92048	SandRidge Energy (Workers)	Oklahoma City, OK	07/25/16	07/22/16
92049	LMI Aerospace (State/One-Stop)	Wichita, KS	07/25/16	07/22/16
92050	Centrex Revenue Solutions (Workers)	Ellicott City, MD	07/25/16	07/22/16
92051	Upper Columbia Mill (State/One-Stop)	Boardman, OR	07/26/16	07/25/16
92052	McDonald's Corporation (State/One-Stop)	Columbus, OH	07/26/16	07/25/16
92053	McDonald's Corporation (State/One-Stop)	Oak Brook, IL	07/26/16	07/25/16
92054	Boston Scientific Corporation (Company)	Marlborough, MA	07/27/16	07/06/16
92055	Bristol Compressors International, LLC (Company)	Bristol, VA	07/27/16	07/26/16
92056	Celestica, Inc. (Company)	Ontario, CA	07/27/16	07/26/16
92057	Chemours Company (Company)	Niagara Falls, NY	07/27/16	07/08/16
92058	EVRAZ Oregon Steel (Company)	Portland, OR	07/27/16	07/26/16
92059	Fused Solutions (State/One-Stop)	Potsdam, NY	07/27/16	07/26/16
92060	Micron (Workers)	Manassas, VA	07/27/16	07/25/16
92061	United States Steel Corporation—Fairfield Works and Fairfield Southern (Union).	Fairfield, AL	07/27/16	07/26/16
92062	Word and Brown (State/One-Stop)	Orange, CA	07/28/16	07/26/16
92063	Brenntag Pacific Inc. (Workers)	Portland, OR	07/28/16	07/13/16
92064	Groupon, Inc. (Workers)	Chicago, IL	07/28/16	07/27/16
92065	Rane Corporation (Company)	Mukilteo, WA	07/28/16	07/14/16
92066	Kraft Heinz Company (Workers)	Pittsburgh, PA	07/28/16	07/27/16
92067	Overland Solutions, Inc. (State/One-Stop)	Overland Park, KS	07/28/16	07/27/16
92068	Electralloy/G O Carlson (Union)	Oil City, PA	07/28/16	07/27/16
92069	Global Technology Associates (State/One-Stop)	Naperville, IL	07/28/16	07/27/16
92070	Bose Corporation (State/One-Stop)	Westborough, MA	07/29/16	07/28/16
92071	Caterpillar High Performance Extrusions Group (Company)	Oxford, MS	07/29/16	07/28/16
92071A	Caterpillar High Performance Extrusions Group (Company)	Memphis, TN	07/29/16	07/28/16
92072	General Products Corporation (Workers)	Russellville, KY	07/29/16	07/28/16
92073	Citi Shared Services (Citigroup) (State/One-Stop)	Hartford, CT	07/29/16	07/28/16
92074	Abbott Laboratories (Workers)	Temecula, CA	08/01/16	07/29/16
92075	SONA BLW Precision Forge, Inc. (Company)	Selma, NC	08/01/16	07/29/16
92076	SPX Heat Transfer (State/One-Stop)	Tulsa, OK	08/01/16	07/29/16
92077	Exodus Machines LLC (Company)	Superior, WI	08/02/16	08/01/16
92078	Intel (State/One-Stop)	Rio Rancho, NM	08/02/16	08/01/16
92079	Fairfield Southern Company (Union)	Fairfield, AL	08/02/16	08/01/16
92080	Xerox (Washington facility—Now Closed) (State/One-Stop)	Redmond, WA	08/03/16	08/02/16
92081	International Business Machines Corporation (IBM) (State/One-Stop).	Somers, NY	08/03/16	08/02/16
92082	Epsilon Data Management (State/One-Stop)	East Greenbush, NY	08/03/16	08/02/16
92083	The ESAB Group, Inc. (Company)	Florence, SC	08/03/16	08/02/16
92084	Northern Industrial Erectors, Inc. (State/One-Stop)	Grand Rapids, MN	08/04/16	08/03/16
92085	T. Bruce Sales, Inc. (State/One-Stop)	West Middlesex, PA	08/04/16	08/03/16
92086	Wing Fai Label Inc. (State/One-Stop)	Bells, CA	08/04/16	08/02/16
92087	Amsted Rail—ASF Keystone Division (Union)	Granite City, IL	08/04/16	08/04/16
92088	MEMC PASADENA, INC. A SUBSIDIARY OF SUNEDISON, INC. (Workers).	Pasadena, TX	08/04/16	08/04/16
92089	Precor Inc. (State/One-Stop)	Woodinville, WA	08/05/16	08/03/16
92090	Ardagh Metal Packaging (State/One-Stop)	Terminal Island, CA	08/05/16	08/04/16

APPENDIX—Continued

[48 TAA petitions instituted between 7/25/16 and 8/5/16]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
92091	NMC Aerospace Engineered Materials Esterline Corporation (State/One-Stop).	Pomona, CA	08/05/16	08/04/16
92092	Abbott Vascular (State/One-Stop)	Temecula, CA	08/05/16	08/04/16
92093	Honeywell Aerospace (State/One-Stop)	Phoenix, AZ	08/05/16	08/04/16

[FR Doc. 2016–23033 Filed 9–23–16; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–91,535]

General Electric Company, GE Transportation Division, Including Workers Whose Wages Were Reported Through TAD PGS Inc. Including On-Site Leased Workers From Adecco USA, TCS (TATA), Chemetall US Inc., AVI, Carehere, Climatech Inc., G4S Secure Solutions, OMH HealthEdge Holdings Inc., Phoenix Llc, Simmers Crane, AND Unitek Technical Services, 1503 West Main Street and 660 Barkeyville Road, Grove City, Pennsylvania; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (“Act”), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 22, 2016, applicable to workers of General Electric Company, GE Transportation Division, including on-site leased workers from Adecco USA, TCS (TATA), Chemetall US Inc., AVI, Carehere, Climatech Inc., G4S Secure Solutions, OMH HealthEdge Holdings Inc., Phoenix LLC, Simmers Crane, and Unitek Technical Services, 1503 West Main Street and 660 Barkeyville Road, Grove City, Pennsylvania. The Department's notice of determination was published in the **Federal Register** on May 24, 2016 (81 FR 32785).

At the request of the state workforce official, the Department reviewed the certification for workers of the subject firm. The workers are engaged in activities related to the production of diesel locomotive engines, diesel marine and stationary engines. New information shows that some workers at General Electric Company had their wages reported through TAD PGS Inc.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected as Supplier to a firm that employed a group of workers who received a certification of eligibility under to apply for Trade Adjustment Assistance.

Accordingly, the Department is amending this certification to properly reflect this matter.

The amended notice applicable to TA–W–91,535 is hereby issued as follows:

> All workers of General Electric Company, GE Transportation Division, including workers whose wages were reported through TAD PGS Inc., including on-site leased workers from Adecco USA, TCS (TATA), Chemetall US Inc., AVI, Carehere, Climatech Inc., G4S Secure Solutions, OMH HealthEdge Holdings Inc., Phoenix LLC, Simmers Crane, and Unitek Technical Services, 1503 West Main Street and 660 Barkeyville Road, Grove City, Pennsylvania, who became totally or partially separated from who became totally or partially separated from employment on or after March 1, 2015 through April 22, 2018, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 22nd day of August 2016.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2016–23026 Filed 9–23–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *July 25, 2016 through August 5, 2016*.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) the increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) there has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) the shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) a significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(e) of the Act must be met.

(1) the workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); or

(B) not withstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
86,116	QG Printing II Corporation, Express	Portland, OR	June 22, 2014.
91,507	Seneca Foods Corporation	Buhl, ID	February 9, 2015.
91,702	Seissenschmidt Corporation, USA Division, Linamar-Seissenschmidt Forging LFC, Seissenschmidt GMBH, etc.	Oscoda, MI	April 13, 2015.
91,891	Tokyo Ohka Kogyo America, Inc., Tokyo Ohka Kogyo, Ltd. Co., Aerotek, Addeco, Kelly Services.	Hillsboro, OR	June 8, 2015.
91,968	Noranda Intermediate Holding Corporation, Vaco	Franklin, TN	June 27, 2015.
91,968A	Norandal USA, Inc., Noranda Intermediate Holding Corporation, Great Rivers, etc.	Huntington, TN	June 27, 2015.
91,968B	Norandal USA, Inc., Noranda Intermediate Holding Corporation, Resourcemfg, etc.	Salisbury, NC	December 3, 2015.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
90,048	Atmel Corporation	Colorado Springs, CO	June 5, 2015.
90,048A	Kelly Services, ProUnlimited, Add Staff, Atmel Corporation	Colorado Springs, CO	January 1, 2014.
90,241	SASOL, Wood Group Production Consulting Services, Inc	Tulsa, OK	January 1, 2014.
91,134	Meritor Heavy Vehicle Systems, LLC, Meritor, Inc	Heath, OH	November 19, 2015.
91,237	Siemens Industry, Inc., Process Industries and Drive Division	Norwood, OH	November 17, 2014.
91,392	Graphic Packaging International Inc., Graphic Packaging Holding Company	Renton, WA	January 25, 2015.
91,648	Ciena Corporation, Product Supply Chain Group, Networking Platforms Division, etc.	Linthicum, MD	March 30, 2015.
91,834	International Business Machines Corporation (IBM), Cloud Storage Manager Services, Global Technology Services Division, etc.	Boulder, CO	May 20, 2015.

TA–W No.	Subject firm	Location	Impact date
91,853	Yellow Pages Digital Media Solutions, LLC, Information Systems and Information Technology Division, etc.	Blue Bell, PA	May 16, 2015.
91,855	CH2M Inc., CH2M HILL Companies Ltd., Division of Finance and Accounting	Englewood, CO	May 12, 2015.
91,858	John Crane Inc. (JCI), Smiths Group, Cielo	Morton Grove, IL	May 25, 2015.
91,865	DLA, Inc., Sercotel, S.A. de C.V., TFI Resources, Inc	Doral, FL	May 26, 2015.
91,885	Caterpillar, Inc., CR Coatings, The Tool Gage House, Vonachen Services, Inc., etc.	Joliet, IL	June 6, 2015.
91,906	Hewlett Packard Enterprise, Service Management-Onboarding Division	Plano, TX	June 10, 2015.
91,920	Compucom Systems, Inc., Dallas Service Desk	Dallas, TX	June 14, 2015.
91,928	Caterpillar, Inc./Balderson, Work Tools Division, Caterpillar, Inc	Jacksonville, FL	June 15, 2015.
91,943	ALM Media LLC, ALM Media, Inc	New York, NY	June 21, 2015.
91,949	One Call Care Management, Align Networks Division (SmartComp), ECA Staffing Solutions, Inc., etc.	Canonsburg, PA	June 22, 2015.
91,950	Branded Entertainment Network, Inc., Corbis Corporation, Branded Entertainment Network Holdings, Inc., SCOM, etc.	Seattle, WA	June 20, 2015.
91,960	Dana Commercial Vehicle Manufacturing LLC, Dana Holding Corporation, Bluegrass and Associates, Ahead Staffing.	Glasgow, KY	June 26, 2015.
91,961	Aurora Casket Company, D/B/A Matthews-Aurora Funeral Solutions, Belflex Staffing Belcan Staffing.	Aurora, IN	June 24, 2015.
91,965	Masonite D/B/A Algoma Hardwoods, ABR	Algoma, WI	June 24, 2015.
91,975	Cascades U.S. Holdings Cascades Auburn Fiber, Cascades, Inc	Auburn, ME	June 29, 2015.
91,976	Motorola Solutions, Inc., Products and Services, Devices Engineering Development Team, etc.	Schaumburg, IL	June 29, 2015.
91,979	GE Transportation Engine System, GE Transportation Division	Latham, NY	July 1, 2015.
91,981	GAP Sample Room, Gap Inc., Prounlimited	New York, NY	April 22, 2015.
91,986	Grede II LLC, Bessemer (Foundry) Division, Metaldyne Performance Group, etc	Bessemer, AL	July 5, 2015.
91,987	Solera Holdings Inc., Audatex North America Division, Database Development Group (DBD), etc.	San Diego, CA	July 5, 2015.
91,991	Caterpillar Precision Engine Components, Industry Solutions, Components, and Distribution Division, etc.	Morganton, NC	July 6, 2015.
91,997	Pall Corporation, Validation Testing Division	Port Washington, NY	July 7, 2015.
92,009	Epicor Software Corporation, EGL Holdco, Inc., Zero Chaos, Wildes Enterprises	Westminster, CO	July 12, 2015

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
91,618	Kato Engineering, Inc	North Mankato, MN	March 22, 2015.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
91,849	Vallourec Drilling Products USA, Inc., Vallourec USA Corporation, Burnett Specialists, 6300 Navigation Boulevard.	Houston, TX	May 24, 2015.
91,849A	Vallourec Drilling Products USA, Inc., Vallourec USA Corporation, 4424 West Sam Houston Parkway North.	Houston, TX	May 24, 2015.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criterion under paragraph (a)(1), or (b)(1) (employment decline or threat of separation) of section 222 has not been met.

TA–W No.	Subject firm	Location	Impact date
90,320	Atos IT Solutions and Services Inc., NSC Global	Cheshire, CT	
91,709	Avery Dennison, Printing and Converting Platform Team	Westborough, MA.	

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
90,011	Wilson Creek Energy, LLC, Roxcoal Inc., PBS Coals Inc., Corsa Coal Corporation.	Friedens, PA	
90,055	Solutia, Inc., Eastman Chemical Company, Henkel Corporation	Springfield, MA	
90,312	Fab-Tech Inc., Critical Process Systems Group (CPSG), Westaff	Colchester, VT	
90,340	Celanese Corporation, Emulsions Division, Brock Jacobs, Allied Barton	Meredosia, IL	
91,214	Parker Aerospace, Parker Hannifin, Jackie Kabrell, AG Energy Solutions, etc	Liberty Lake, WA	
91,461	Sprint Wireless Call Center	Temple, TX	
91,636	Alorica, Inc., Albuquerque Division	Albuquerque, NM	
91,641	General Electric Company, GE Capacitor and Power Quality Products, Energy Connections Division.	Fort Edward, NY	
91,750	NWS Traffic LLC, Pole Manufacturing Division, Signal Group, Inc., Peek Traffic Corporation.	Tualatin, OR	
91,831	Vesta Corporation, Unosquare LLC, Infogroup Northwest, Inc., Lexicon Solutions	Portland, OR	
91,962	Minnesota Wire Cable, Manpower, Express Employment Professionals, Kelly Services, Adecco.	Eau Claire, WI	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
92,027	McDonald's Corporation	Columbus, OH	

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W No.	Subject firm	Location	Impact date
91,850	Verso Corporation, Wickliffe Mill, Select Staffing, U.S. Security Associates, etc ..	Wickliffe, KY	
91,850A	Verso Corporation, Beaver Dam Woodyard	Beaver Dam, KY	
91,850B	Verso Corporation, Eddyville Woodyard	Eddyville, KY	
91,850C	Verso Corporation, Waldschmidt Woodyard	Wickliffe, KY	
91,850D	Verso Corporation, Bethel Springs Woodyard	Bethel Springs, TN	
91,850E	Verso Corporation, Big Sandy Woodyard	Camden, TN	
91,850F	Verso Corporation, Dover Woodyard	Dover, TN	
92,039	Norandal USA, Inc., Noranda Intermediate Holding Corporation, Great Rivers Employment, etc.	Huntington, TN	
92,039A	Norandal USA, Inc., Noranda Intermediate Holding Corporation, Resourcemfg, etc.	Salisbury, NC	

The following determinations terminating investigations were issued because the petitions are the subject of ongoing investigations under petitions filed earlier covering the same petitioners.

TA–W No.	Subject firm	Location	Impact date
91,982	Caterpillar	Thomasville, GA	

I hereby certify that the aforementioned determinations were issued during the period of *July 25, 2016 through August 5, 2016.* These determinations are available on the Department's Web site *https://www.doleta.gov/tradeact/taa/taa_search_form.cfm* under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 8th day of August 2016.

Jessica R. Webster,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2016–23031 Filed 9–23–16; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

TA–W–90,281, VERSO CORPORATION, WICKLIFFE MILL, INCLUDING ON-SITE LEASED WORKERS FROM SELECT STAFFING, U.S. SECURITY ASSOCIATES

AND ABBCO JANITORIAL WICKLIFFE, KENTUCKY
TA–W–90,281A, VERSO CORPORATION, BEAVER DAM WOODYARD, BEAVER DAM, KENTUCKY
TA–W–90,281B, VERSO CORPORATION, EDDYVILLE WOODYARD, EDDYVILLE, KENTUCKY
TA–W–90,281C, VERSO CORPORATION, WALDSCHMIDT WOODYARD, WICKLIFFE, KENTUCKY
TA–W–90,281D, VERSO CORPORATION, BETHEL SPRINGS WOODYARD, BETHEL SPRINGS, TENNESSEE
TA–W–90,281E, VERSO CORPORATION, BIG SANDY WOODYARD, CAMDEN, TENNESSEE
TA–W–90,281F, VERSO CORPORATION, DOVER WOODYARD, DOVER, TENNESSEE

In accordance with Section 223 of the Trade Act of 1974, as amended (“Act”), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 20, 2015, applicable to workers of Verso Corporation, Wickliffe Mill, including on-site leased workers from Select Staffing, U.S. Security Associates and Abbco Janitorial, Wickliffe, Kentucky. The Department's notice of determination was published in the **Federal Register** on January 11, 2016 (81 FR 1227).

At the request of a state workforce office and a company official, the Department reviewed the certification for workers of the subject firm. The workers are engaged in activities related to the production of coated and uncoated freesheet paper for catalogs, magazines, retail inserts, direct mail and general commercial printing applications and market pulp.

New information shows that worker separations have occurred at Verso Corporation, Wickliffe Mill, including on-site leased workers from Select Staffing, U.S. Security Associates and Abbco Janitorial, Wickliffe, Kentucky (TA–W–90,281), Verso Corporation, Beaver Dam Woodyard, Beaver Dam, Kentucky (TA–W–90,281A), Verso Corporation, Eddyville Woodyard, Eddyville, Kentucky (TA–W–90,281B), Verso Corporation, Waldschmidt Woodyard, Wickliffe, Kentucky (TA–W–90,281C), Verso Corporation, Bethel Springs Woodyard, Bethel Springs, Tennessee (TA–W–90,281D), Verso Corporation, Big Sandy Woodyard, Camden, Tennessee (TA–W–90,281E), Verso Corporation, Dover Woodyard, Dover, Tennessee (TA–W–90,281F). The employees support and work in conjunction with Verso Corporation, Wickliffe Mill, including on-site leased workers from Select Staffing, U.S. Security Associates and Abbco Janitorial, Wickliffe, Kentucky (TA–W–90,281) in woodyards which served to procure wood from the source, contracted with timber harvesters, and served as the collection site of the wood for short term storage until it was transported to the mill.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by customer imports of coated and uncoated freesheet paper for catalogs, magazines, retail inserts, direct mail and general commercial printing applications and market pulp.

Based on these findings, the Department is amending this certification to include employees of Verso Corporation, Wickliffe Mill, including on-site leased workers from Select Staffing, U.S. Security Associates and Abbco Janitorial, Wickliffe, Kentucky (TA–W–90,281), Verso Corporation, Beaver Dam Woodyard, Beaver Dam, Kentucky (TA–W–90,281A), Verso Corporation, Eddyville Woodyard, Eddyville, Kentucky (TA–W–90,281B), Verso Corporation, Waldschmidt Woodyard, Wickliffe, Kentucky (TA–W–90,281C), Verso Corporation, Bethel Springs Woodyard, Bethel Springs, Tennessee (TA–W–90,281D), Verso Corporation, Big Sandy Woodyard, Camden, Tennessee (TA–W–90,281E), Verso Corporation, Dover Woodyard, Dover, Tennessee (TA–W–90,281F).

The amended notice applicable to TA–W–90,281 is hereby issued as follows:

> All workers of Verso Corporation, Wickliffe Mill, including on-site leased workers from Select Staffing, U.S. Security Associates and Abbco Janitorial, Wickliffe, Kentucky (TA–W–90,281), Verso Corporation, Beaver Dam Woodyard, Beaver Dam, Kentucky (TA–W–90,281A), Verso Corporation, Eddyville Woodyard, Eddyville, Kentucky (TA–W–90,281B), Verso Corporation, Waldschmidt Woodyard, Wickliffe, Kentucky (TA–W–90,281C), Verso Corporation, Bethel Springs Woodyard, Bethel Springs, Tennessee (TA–W–90,281D), Verso Corporation, Big Sandy Woodyard, Camden, Tennessee (TA–W–90,281E), Verso Corporation, Dover Woodyard, Dover, Tennessee (TA–W–90,281F), who became totally or partially separated from employment on or after January 1, 2014 through November 20, 2017, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 4th day of August, 2016.

Jessica R. Webster,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2016–23032 Filed 9–23–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,804]

Convergys Corporation; Including Workers Whose Wages Were Reported Through Stream International, Inc.; Jacksonville, Texas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (“Act”), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 15, 2016, applicable to workers of Convergys Corporation, Jacksonville, Texas. The Department's notice of determination was published in the **Federal Register** on April 26, 2016 (81 FR 24649).

At the request of a State Workforce Office, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the supply of outsourced customer services and product support (call center).

New information shows that some workers separated from employment at Convergys Corporation, Jacksonville, Texas had their wages reported under the name Stream International, Inc.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by shift in services of outsourced customer services and product support (call center).

Accordingly, the Department is amending this certification to properly reflect this matter. The amended notice applicable to TA–W–85,804 is hereby issued as follows:

> All workers of Convergys Corporation, including workers whose wages were reported through Stream International, Inc., Jacksonville, Texas, who became totally or partially separated from who became totally or partially separated from employment on or after February 2, 2014 through March 15, 2018 and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 12th day of August 2016.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2016–23030 Filed 9–23–16; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–91,051]

Carter Fuel Systems, a Subsidiary of Crowne Group LLC, Including On-Site Leased Workers From Aerotek, Crossfire Group, and Entegee Engineering, Logansport, Indiana; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 24, 2016, applicable to workers of Carter Fuel Systems, a subsidiary of Crowne Group LLC, including on-site leased workers from Aerotek and CrossFire Group, Logansport, Indiana (TA–W–91,051). The Department's notice of determination was published in the **Federal Register** on May 24, 2016 (81 FR 32783).

At the request of the company official of the workers' firm, the Department reviewed the certification for workers of the subject firm. The workers were engaged in activities related to the production of fuel pumps.

The company reports that workers leased from Entegee Engineering were employed on-site at the Logansport, Indiana location of Carter Fuel Systems, a subsidiary of Crowne Group LLC. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers. The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by acquisition of fuel pumps or articles like or directly competitive from a foreign country.

Based on these findings, the Department is amending this certification to include workers leased from Entegee Engineering working on-site at the Logansport, Indiana location of Carter Fuel Systems, a subsidiary of Crowne Group LLC.

The amended notice applicable to TA–W–91,051 is hereby issued as follows:

> All workers of Carter Fuel Systems, a subsidiary of Crowne Group LLC, including on-site leased workers from Aerotek, CrossFire Group, and Entegee Engineering, Logansport, Indiana who became totally or partially separated from employment on or after October 1, 2014 through April 24, 2018 and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 16th day of August 2016.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2016–23029 Filed 9–23–16; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–91,325]

Essar Steel Minnesota LLC, a Wholly Owned Subsidiary of Essar Global Fund Limited Including On-Site Leased Workers From Express Employment Professionals, Always There Staffing, Vesterheim Geoscience PLC, and Rod Johnson & Associates, Hibbing, Minnesota; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated May 2, 2016, the state workforce office requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for worker adjustment assistance applicable to workers and former workers of Essar Steel Minnesota LLC, a wholly owned subsidiary Essar Global Fund Limited, including on-site leased workers from Express Employment Professionals, Always There Staffing, Vesterheim Geoscience PLC, Rod Johnson & Associates, Hibbing, Minnesota. The determination was issued on April 8, 2016.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a negative determination based on the findings that that imports did not increase, and that the workers' firm does not import machining and construction services. Further, the firm did not shift the supply of machining and construction services or like or directly competitive services to a foreign country or acquire machining and construction services or like or directly competitive services from a foreign country. Further, the firm is not a Supplier to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. 2272(a). The services supplied by the workers firm were not used in the production of an article, iron ore. Finally, the firm does not act as a Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. 2272(a).

The request for reconsideration asserts that this determination is erroneous and that the subject firm workers should be considered in production of mining. The request also included additional information relating to this statement.

The Department of Labor has carefully reviewed the request for reconsideration and the existing record, and has determined that the Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 8th day of August, 2016.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2016–23027 Filed 9–23–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Domestic Agricultural In-Season Wage Report

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) revision titled, ''Domestic Agricultural In-Season Wage Report,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before October 26, 2016.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201607-1205-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Domestic Agricultural In-Season Wage Report. The ETA needs prevailing wage rate information in order to determine the appropriate minimum wage an agricultural employer utilizing the H–2A program, allowing temporary employment of alien agricultural and logging workers in the United States, must pay to foreign and domestic farmworkers. State Workforce Agencies are charged with collecting the data from agricultural employers and submitting reports to the ETA. The wage rates cover crop and livestock as well as logging activities. Domestic migrant and local seasonal as well as foreign H–2A farmworkers are hired for these jobs. This information collection has been classified as a revision, because of format changes to Forms ETA–232 (Domestic Agricultural In-Season Wage Report) and ETA–232A (Wage Survey Interview Record). The questions on both forms questions remain the same, with no additions or deletions. Wagner-Peyser Act section 7(a) authorizes this information collection. *See* 29 U.S.C. 49f(a).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0017. The current approval is scheduled to expire on September 30, 2016; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 5, 2016 (81 FR 27175).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0017. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Domestic Agricultural In-Season Wage Report.

OMB Control Number: 1205–0017.

Affected Public: State, Local, and Tribal Governments; Private Sector—businesses or other for-profits and farms.

Total Estimated Number of Respondents: 24,732.

Total Estimated Number of Responses: 27,658.

Total Estimated Annual Time Burden: 16,477 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: September 20, 2016.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2016–23063 Filed 9–23–16; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Demonstration and Evaluation of Community College Interventions for Youth and Young Adults With Disabilities

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Disability Employment Policy (ODEP) sponsored information collection request (ICR) proposal titled, ''Demonstration and Evaluation of Community College Interventions for

Youth and Young Adults with Disabilities," to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before October 26, 2016.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201609-1290-003* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ODEP, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks PRA authority for the Demonstration and Evaluation of Community College Interventions for Youth and Young Adults with Disabilities information collection. More specifically, this ICR is for information collections to conduct (1) in-depth interviews with grantee staff, other community college administrators and staff, students, and grantee partner organizations; (2) focus groups with faculty; and (3) surveys of community college students. These data collections are essential elements of the evaluation of the Pathways to Careers: Community Colleges for Youth and Young Adults with Disabilities Demonstration Project.

This proposed information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. For additional information, see the related notice published in the **Federal Register** on October 6, 2015 (80 FR 60407).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB ICR Reference Number 201609–1230–002. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: DOL–ODEP.

Title of Collection: Demonstration and Evaluation of Community College Interventions for Youth and Young Adults With Disabilities.

OMB ICR Reference Number: 201609–1230–001.

Affected Public: Individuals or Households; State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 505.

Total Estimated Number of Responses: 505.

Total Estimated Annual Time Burden: 437 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: September 20, 2016.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2016–23062 Filed 9–23–16; 8:45 am]

BILLING CODE 4510–HX–P

NEIGHBORHOOD REINVESTMENT CORPORATION

Regular Board of Directors Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Wednesday, September 28, 2016.

PLACE: NeighborWorks America—Gramlich Boardroom, 999 North Capitol Street NE., Washington, DC 20002.

STATUS: Open (with the exception of Executive Session).

CONTACT PERSON: Jeffrey Bryson, EVP & General Counsel/Secretary, (202) 760–4101; *jbryson@nw.org.*

AGENDA:

I. Call to Order
II. Recognition of Helen Kanovsky
III. Approval of Minutes
IV. Executive Session: Report from CEO
V. Executive Session: Appointment of New COO
VI. Executive Session: Audit Committee Report
VII. Executive Session: Report from CFO
VIII. Executive Session: 457(b) Plan Update
IX. Strategic Plan
X. FY2017 Corporate Goals
XI. FY2017 Preliminary Spending Plan
XII. Extension of DC Lease/Acquisition of Space
XIII. Management Program Background & Updates
XIV. Adjournment

The General Counsel of the Corporation has certified that in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552(b)(2) and (4) permit closure of the following portions of this meeting:

- Report from CEO
- Appointment of New COO
- Audit Committee Report Out
- Report from CFO
- 457(b) Plan Update

Jeffrey T. Bryson,

EVP & General Counsel/Corporate Secretary.

[FR Doc. 2016–23321 Filed 9–22–16; 4:15 pm]

BILLING CODE 7570–02–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0001]

Sunshine Act Meeting Notice

DATE: September 26, October 3, 10, 17, 24, 31, 2016.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of September 26, 2016

There are no meetings scheduled for the week of September 26, 2016.

Week of October 3, 2016—Tentative

Wednesday, October 5, 2016

9:00 a.m. Hearing on Combined Licenses for William States Lee III Nuclear Station, Units 1 and 2: Section 189a. of the Atomic Energy Act Proceeding (Public Meeting) (Contact: Brian Hughes: 301–415–6582)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/*.

Thursday, October 6, 2016

10:00 a.m. Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting) (Contact: Mark Banks: 301–415–3718)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/*.

Week of October 10, 2016—Tentative

There are no meetings scheduled for the week of October 10, 2016.

Week of October 17, 2016—Tentative

Tuesday, October 18, 2016

9:30 a.m. Strategic Programmatic Overview of the Decommissioning and Low-Level Waste and Spent Fuel Storage and Transportation Business Lines (Public Meeting) (Contact: Janelle Jessie: 301–415–6775)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/*.

Thursday, October 20, 2016

9:30 a.m. Strategic Programmatic Overview of the New Reactors Business Line (Public Meeting) (Contact: Donna Williams: 301–415–1322)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/*.

Week of October 24, 2016—Tentative

Thursday, October 27, 2016

10:00 a.m. Program Review of Part 37 of Title 10 of the *Code of Federal Regulations* (10 CFR part 37) for the Protection of Risk-Significant Quantities of Radioactive Material (Public Meeting) (Contact: George Smith: 301–415–7201)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/*.

Week of October 31, 2016—Tentative

Friday, November 4, 2016

10:00 a.m. Briefing on Security Issues (Closed Ex. 1)

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov*.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html*.

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov*.

Dated: September 22, 2016.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2016–23264 Filed 9–22–16; 4:15 pm]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2016–289]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* September 28, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39

CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2016–289; *Filing Title:* Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 1D Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* September 20, 2016; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* September 28, 2016.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–23105 Filed 9–23–16; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Temporary Emergency Committee of the Board of Governors; Sunshine Act Meeting

DATES AND TIMES: Tuesday, September 27, 2016, at 12:15 p.m.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza SW., in the Benjamin Franklin Room, and via teleconference.

STATUS: Tuesday, September 27, 2016, at 12:15 p.m.—Closed; Tuesday, September 27, 2016, at 2:00 p.m.—Open.

MATTERS TO BE CONSIDERED:

Tuesday, September 27, 2016, at 12:15 p.m. (Closed)

1. Strategic Issues.
2. Financial Matters.
3. Pricing.
4. Compensation and Personnel Matters.
5. Governors' Executive Session—Discussion of prior agenda items and Board governance.

Tuesday, September 27, 2016, at 2:00 p.m. (Open)

1. Remarks of the Chairman of the Temporary Emergency Committee of the Board.
2. Remarks of the Postmaster General and CEO.
3. Approval of Minutes of Previous Meetings.
4. Committee Reports.
5. August YTD Financial Performance.
6. Quarterly Service Performance Report.
7. Approval of the Strategic Plan.
8. Tentative Agenda for the October, 11, 2016, teleconference.

CONTACT PERSON FOR MORE INFORMATION: Julie S. Moore, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza SW., Washington, DC 20260–1000. Telephone: (202) 268–4800.

Julie S. Moore,

Secretary.

[FR Doc. 2016–23251 Filed 9–22–16; 11:15 am]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

Summary: In accordance with the Paperwork Reduction Act of 1995, the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collection of information to determine (1) the practical utility of the collection; (2) the accuracy of the estimated burden of the collection; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

Title and Purpose of Information Collection: Medical Reports; OMB 3220–0038.

Under sections 2(a)(1)(iv) and 2(a)(1)(v) of the Railroad Retirement Act (RRA), annuities are payable to qualified railroad employees whose physical or mental condition makes them unable to (1) work in their regular occupation (occupational disability) or (2) work at all (total disability). The requirements for establishing disability and proof of continuing disability under the RRA are prescribed in 20 CFR 220.

Annuities are also payable to (1) qualified spouses and widow(ers) under sections 2(c)(1)(ii)(C) and 2(d)(1)(ii) of the RRA who have a qualifying child who became disabled before age 22; (2) surviving children on the basis of disability under section 2(d)(1)(iii)(C), if the child's disability began before age 22; and (3) widow(er)s on the basis of disability under section 2(d)(1)(i)(B). To meet the disability standard, the RRA provides that individuals must have a permanent physical or mental condition that makes them unable to engage in any regular employment.

Under section 2(d)(1)(v) of the RRA, annuities are also payable to remarried widow(er)s and surviving divorced spouses on the basis of, among other things, disability or having a qualifying disabled child in care. However, the disability standard in these cases is that found in the Social Security Act. That is, individuals must be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment. The RRB also determines entitlement to a Period of Disability and entitlement to early Medicare based on disability for qualified claimants in accordance with Section 216 of the Social Security Act.

When making disability determinations, the RRB needs evidence from acceptable medical sources. The RRB currently utilizes Forms G–3EMP, Report of Medical Condition by Employer; G–197, Authorization to Disclose Information to the Railroad Retirement Board; G–250, Medical Assessment; G–250A, Medical Assessment of Residual Functional Capacity; G–260, Report of Seizure Disorder; RL–11B, Disclosure of Hospital Medical Records; RL–11D, Disclosure of Medical Records from a State Agency; and RL–250, Request for Medical Assessment, to obtain the necessary medical evidence.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (81 FR 43670 on July 5, 2016) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Medical Reports.

OMB Control Number: 3220–0038.

Form(s) submitted: G–3EMP, G–197, G–250, G–250a, G–260, RL–11B, RL–11D, RL–11D1, RL–250.

Type of Request: Revision of a currently approved collection of information.

Affected Public: Individuals or households; Private Sector; State, Local and Tribal Government.

Abstract: The Railroad Retirement Act provides disability annuities for qualified railroad employees whose physical or mental condition renders them incapable of working in their regular occupation (occupational disability) or any occupation (total disability). The medical reports obtain information needed for determining the nature and severity of the impairment.

Changes Proposed: In support of the RRB's Disability Program Improvement Project to enhance/improve disability case processing and overall program integrity, the RRB proposes the addition of proposed Form RL–11D1, Request for Medical Evidence from Employers, to the information collection. Form RL–11D1 will be mailed by an RRB field office to railroad employers to obtain any medical evidence regarding the employee's disability that they may have acquired within the last 18 months. A copy of the employee signed Form G–197 will be enclosed with the RL–11D1. The employer will return the RL–11D1 to RRB Headquarters certifying that they either have submitted the requested medical evidence or that they have no medical evidence to submit. One response is requested of each respondent. Completion is voluntary.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–3EMP	600	10	100
G–197	6,000	10	1,000
G–250	11,950	30	5,975
G–250A	50	20	17
G–260	100	25	42
RL–11B	5,000	10	833
RL–11D	250	10	42
RL–11D1	600	20	200
RL–250	11,950	10	1,992
Total	36,500	....	10,201

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV.*

Comments regarding the information collection should be addressed to Charles Mierzwa, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 or *Charles.Mierzwa@RRB.GOV* and to the OMB Desk Officer for the RRB, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

Charles Mierzwa,

Associate Chief Information Officer for Policy and Compliance.

[FR Doc. 2016–23011 Filed 9–23–16; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a closed meeting on Thursday, September 29, 2016 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(7), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matter at the closed meeting.

Chair White, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Adjudicatory matters; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: September 22, 2016.

Brent J. Fields,

Secretary.

[FR Doc. 2016–23326 Filed 9–22–16; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78887; File No. SR–NYSE–2016–45]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Amendment No. 1 to Proposed Rule Change Amending the Co-Location Services Offered by the Exchange To Add Certain Access and Connectivity Fees

September 20, 2016.

On July 29, 2016, the New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change (1) to provide additional information regarding access to various trading and execution services; connectivity to market data feeds and testing and certification feeds; connectivity to third party systems; and connectivity to DTCC provided to Users using data center local area networks; and (2) to establish fees relating to a User's access to various trading and execution services; connectivity to market data feeds and testing and certification feeds; connectivity to DTCC; and other services. The Exchange filed Amendment No. 1 to the proposed rule change on August 16, 2016. The proposed rule change was published for comment in the **Federal Register** on August 17, 2016 without Amendment No. 1.[3] The Commission received one comment letter in response to the proposed rule change.[4] Amendment No. 1 is described in Items I, II, and III below, which Items have been prepared by the Exchange.[5] The Commission is publishing this notice to solicit comments on Amendment No. 1 to the proposed rule change from interested persons.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the co-location services offered by the Exchange as follows: (1) To provide additional information regarding the access to trading and execution services and connectivity to data provided to Users with local area networks available in the data center; and (2) to establish fees relating to User's access to trading and execution services; connectivity to data feeds and to testing and certification feeds; access to clearing; and other services. In addition, this proposed rule change reflects changes to the Exchange's Price List related to these co-location services. This Amendment No. 1 supersedes the original filing in its entirety. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the co-location[6] services offered by the Exchange as follows: (1) To provide additional information regarding the access to trading and execution services and connectivity to data provided to Users[7] with local area networks available in the data center; and (2) to establish fees relating to Users' access to trading and execution services; connectivity to data feeds and to testing and certification feeds; access to clearing; and other services.

More specifically, the Exchange proposes to revise the Price List to include:

a. A more detailed description of the access to the trading and execution systems of the Exchange and its Affiliate SROs (the "Exchange Systems") and connectivity to certain market data products (the "Included Data Products") that Users receive with connections to the Liquidity Center Network ("LCN") and internet protocol ("IP") network, local area networks available in the data center;

b. fees for connectivity to:

- Certain other market data products of the Exchange and its Affiliate SROs (the "Premium NYSE Data Products" and, together with the Included Data Products, the "NYSE Data Products");
- access to the execution systems of third party markets and other content service providers ("Third Party Systems");
- data feeds from third party markets and other content service providers (the "Third Party Data Feeds");
- third party testing and certification feeds;
- Depository Trust & Clearing Corporation ("DTCC") services; and

c. fees for virtual control circuits ("VCCs") between two Users. VCCs are unicast connections between two participants over dedicated bandwidth.[8]

The Exchange provides access to the Exchange Systems and Third Party Systems (together, "Access") and connectivity to NYSE Data Products, Third Party Data Feeds, third party testing and certification feeds, and DTCC (collectively, "Connectivity") as conveniences to Users. Use of Access or Connectivity is completely voluntary, and several other access and connectivity options are available to a User. As alternatives to using the Access and Connectivity provided by the Exchange, a User may access or connect to such services and products through another User or through a connection to an Exchange access center outside the data center, third party access center, or third party vendor. The User may make such connection through a third party telecommunication provider, third party wireless network, the Exchange's Secure Financial Transaction Infrastructure ("SFTI") network, or a combination thereof.

Similarly, the Exchange provides VCCs as a convenience to Users. Use of a VCC is completely voluntary. As an alternative to an Exchange-provided VCC, a User may connect to another User through a fiber connection ("cross connect").[9]

Access to Exchange Systems and Connectivity to Included Data Products

As the Exchange has previously stated, a User's connection to the LCN or IP network provides it access to the Exchange Systems and Exchange market data products.[10] More specifically, when a User purchases access to the LCN or IP network through purchase of a 1, 10, or 40 Gb LCN circuit, a 10 Gb LX Circuit, bundled network access, Partial Cabinet Solution bundle, or 1, 10 or 40 Gb IP network access,[11] as part of the purchase it receives access to the Exchange Systems and connectivity to any Included Data Products that it selects.[12] The Exchange proposes to revise the Price List to provide a more detailed description of the access to the Exchange Systems and connectivity to Included Data Products that comes with connections to the LCN or IP network.[13]

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[3] *See* Securities Exchange Act Release No. 34–78556 (August 11, 2016), 81 FR 54877 ("Notice").

[4] *See* letter to Brent J. Fields, Secretary, Commission, from John Ramsay, Chief Market Policy Officer, Investors Exchange LLC (IEX), dated September 9, 2016, available at *https://www.sec.gov/comments/sr-nyse-2016-45/nyse201645-2.pdf.*

[5] Amendment No. 1 more closely aligns the proposed rule change with companion proposals filed by the Exchange's affiliates NYSE Arca and NYSE MKT. *See* Securities Exchange Act Release No. 34–78628 (August 22, 2016), 81 FR 59004 (August 26, 2016) (SR–NYSEArca–2016–89); Securities Exchange Act Release No. 34–78629 (August 22, 2016), 81 FR 58992 (August 26, 2016) (SR–NYSEMKT–2016–63). Amendment No. 1 is also available at *https://www.sec.gov/comments/sr-nyse-2016-45/nyse201645-1.pdf.*

[6] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission ("Commission") in 2010. *See* Securities Exchange Act Release No. 62960 (September 21, 2010), 75 FR 59310 (September 27, 2010) (SR–NYSE–2010–56) (the "Original Co-location Filing"). The Exchange operates a data center in Mahwah, New Jersey (the "data center") from which it provides co-location services to Users.

[7] For purposes of the Exchange's co-location services, a "User" means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76008 (September 29, 2015), 80 FR 60190 (October 5, 2015) (SR–NYSE–2015–40). As specified in the Price List, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates NYSE MKT LLC ("NYSE MKT") and NYSE Arca, Inc. ("NYSE Arca" and, together with NYSE MKT, the "Affiliate SROs"). *See* Securities Exchange Act Release No. 70206 (August 15, 2013), 78 FR 51765 (August 21, 2013) (SR–NYSE–2013–59).

[8] Information flows over existing network connections in two formats: "unicast" format, which is a format that allows one-to-one communication, similar to a phone line, in which information is sent to and from the Exchange; and "multicast" format, which is a format in which information is sent one-way from the Exchange to multiple recipients at once, like a radio broadcast.

[9] *See* Original Co-location Filing, *supra* note 4, at 59311 and Securities Exchange Act Release No. 74222 (February 6, 2015), 80 FR 7888 (February 12, 2015) (SR–NYSE–2015–05) (notice of filing and immediate effectiveness of proposed rule change to include IP network connections and fiber cross connects between a User's cabinet and non-User's equipment as co-location services) (the "IP Network Release").

[10] *See* Original Co-location Filing, *supra* note 4, at 59311 ("According to NYSE, SFTI and LCN both provide Users with access to the Exchange's trading

Access to certification and testing feeds comes with the purchase of access to the Exchange Systems and connectivity to many of the NYSE Data Products. Such feeds, which are solely used for certification and testing and do not carry live production data, are only available over the IP network.[14] Certification feeds are used to certify that a User conforms to any relevant technical requirements for receipt of data or access to Exchange Systems. Test feeds provide Users an environment in which to conduct tests with non-live data, including testing for upcoming Exchange releases and product enhancements or the User's own software development.

The Exchange offers connectivity to NYSE Data Products in three forms: As a resilient feed, as "Feed A" or as "Feed B." Resilient feeds include two copies of the same feed, for redundancy purposes. Feed A and Feed B are identical feeds.[15]

Connectivity to Exchange Systems

As the Exchange has previously stated, Users' connections to the LCN or IP networks include access to Exchange Systems.[16] Accordingly, the Exchange proposes to add language to its Price List stating the following:

> When a User purchases access to the LCN or IP network, it receives the ability to connect to the trading and execution systems of the NYSE, NYSE MKT and NYSE Arca (Exchange Systems), subject, in each case, to authorization by the NYSE, NYSE MKT or NYSE Arca, as applicable. Such connectivity includes access to the customer gateways that provide for order entry, order receipt (*i.e.* confirmation that an order has been received), receipt of drop copies and trade reporting (*i.e.* whether a trade is executed or cancelled), as well as for sending information to shared data services for clearing and settlement. A User can change the connections it receives at any time, subject to authorization. A User does not have to purchase access to the LCN or IP network in order to obtain connectivity to Exchange Systems.

Connectivity to Included Data Products

Currently, there are three categories of data feeds for which the Exchange offers Users connectivity: Included Data Products; Premium NYSE Data Products; and Third Party Data.[17]

The Included Data Products include the data feeds disseminated by the Consolidated Tape Association ("CTA") (such data feeds, the "NMS feeds"). CTA is responsible for disseminating consolidated, real-time trade and quote information in NYSE listed securities (Network A) and NYSE MKT, NYSE Arca and other regional exchanges' listed securities (Network B) pursuant to a national market system plan.[18] The NMS feeds include the Consolidated Tape System and Consolidated Quote System data streams, as well as Options Price Reporting Authority feeds.

In order to connect to an Included Data Product, a User enters into a contract with the provider of such data, pursuant to which the User is charged for the Included Data Product. After the User and data provider enter into the contract and the Exchange receives authorization from the provider of the data feed, the Exchange provides the User with connectivity to the Included Data Product over the User's LCN or IP network port. The Exchange does not charge the User separately for such connectivity to the Included Data Product, as it is included in the purchase of the access to the LCN or IP network.

The Included Data Products are available over both the LCN and IP network.[19] For a User that purchases access to the LCN and IP network, the Exchange works with such User to allocate its connectivity to Included Data Products between its LCN and IP network connections. Some Included Data Products require a network connection with a minimum gigabyte ("Gb") size in order to accommodate the feed.

Users may connect to an Included Data Product as a resilient feed or as individual Feeds A and B.

The Included Data Products are as follows:

NMS feeds
NYSE:
  NYSE Alerts
  NYSE BBO
  NYSE OpenBook
  NYSE Order Imbalances
  NYSE Trades
NYSE Amex Options
NYSE Arca:
  NYSE ArcaBook
  NYSE Arca BBO
  NYSE Arca Order Imbalances
  NYSE Arca Trades
NYSE Arca Options
NYSE Bonds
NYSE MKT:
  NYSE MKT Alerts
  NYSE MKT BBO
  NYSE MKT OpenBook
  NYSE MKT Order Imbalances
  NYSE MKT Trades

In addition to the above list of Included Data Products, the Exchange

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and execution systems and to the Exchange's proprietary market data products.") and IP Network Release, *supra* note 7, at 7889 ("Like the LCN, the IP network provides Users with access to the Exchange's trading and execution systems and to the Exchanges' proprietary market data products."). The IP network was previously sometimes referred to as SFTI. *See id.*

[11] *See* Securities Exchange Act Release Nos. 70888 (November 15, 2013), 78 FR 69907 (November 21, 2013) (SR–NYSE–2013–73); 72721 (July 30, 2014), 79 FR 45562 (August 5, 2014) (SR–NYSE–2014–37); 76369 (November 5, 2015), 80 FR 70027 (November 12, 2015) (SR–NYSE–2015–54); and 77072 (February 5, 2016), 81 FR 7394 (February 11, 2016) (SR–NYSE–2015–53).

[12] As discussed below, in order to connect to an Included Data Product, a User must have entered into a contract with the provider of the data feed. Similarly, in order to access an Exchange System, the User must have authorization from the Exchange or the relevant Affiliate SRO.

[13] Because each Included Data Product uses part of a User's bandwidth, a User may wish to limit the number of Included Data Products that it receives to those that it requires. The Exchange notes that connectivity to the LCN and IP network also includes connectivity to Exchange Systems, as discussed under "Connectivity to Exchange Systems," below. *See also* note 8, *supra*.

[14] A User that does not have an IP network connection may obtain an IP network circuit for purposes of testing and certification for free for three months. *See* IP Network Release, *supra* note 7, at 7889. A User that opted to obtain connectivity to NYSE Data Products through another User, a telecommunication provider, third party wireless network, or the SFTI network would receive the corresponding testing and certification feeds.

[15] A User that wants redundancy would connect to both Feed A and Feed B or two resilient feeds, using two different ports. A User may opt to connect both Feed A and Feed B to the same port, the effect of which would be the same as if the User had connected to a resilient feed. The form of feed that a User selects may affect the connection it requires. For example, a User connecting to the NYSE Arca Integrated Feed, NYSE Integrated Feed or NYSE MKT Integrated Feed would need at least a 1 Gb IP network connection in order to connect to either Feed A or Feed B. To connect to a resilient feed, the User would require an LCN or IP network connection of at least 10 Gb.

[16] *See* note 8, *supra*.

[17] The NYSE Data Products and Third Party Data Feeds do not provide access or order entry to the Exchange's execution system.

[18] The Included Data Products do not include connectivity to the data feeds disseminated pursuant to the "Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis" (the "UTP Plan"). The UTP Plan is responsible for disseminating consolidated, real-time trade and quote information in Nasdaq Stock Exchange LLC listed securities (Network C). Connectivity to data disseminated pursuant to the UTP Plan is available as a Third Party Data Feed.

[19] As noted above, certification and testing feeds included with an Included Data Product are only available over the IP network.

proposes to add the following language to the Price List:

> When a User purchases access to the LCN or IP network it receives connectivity to any of the Included Data Products that it selects, subject to any technical provisioning requirements and authorization from the provider of the data feed. Market data fees for the Included Data Products are charged by the provider of the data feed. A User can change the Included Data Products to which it receives connectivity at any time, subject to authorization from the provider of the data feed. The Exchange is not the exclusive method to connect to the Included Data Products.

Connectivity

Connectivity to Premium NYSE Data Products

The Exchange offers Users connectivity to Premium NYSE Data Products from the Exchange and its Affiliate SROs over Users' LCN and IP network connections. The Exchange proposes to revise the Price List to specify the connectivity fees for Premium NYSE Data Products.

The Premium NYSE Data Products are equity market data products that are variants of the equity Included Data Products. Each Premium NYSE Data Product integrates, or includes data elements from, several Included Data Products.[20] For example, the NYSE Integrated Feed includes, among other things, information available from three of the equity Included Data Products: NYSE OpenBook, NYSE Trades, and NYSE Order Imbalances.[21] The NYSE BQT data feed includes, among other things, certain data elements from six of the equity Included Data Products: NYSE Trades, NYSE BBO, NYSE Arca Trades, NYSE Arca BBO, NYSE MKT Trades, and NYSE MKT BBO.[22]

By contrast, while some of the Included Data Products include data elements from other Included Data Products, no single Included Data Product includes as much data as a Premium NYSE Data Product. With the exception of NYSE Arca Order Imbalances, the equity Included Data Products were introduced before the Premium Data Products.[23]

There are no Premium NYSE Data Products for the NYSE Amex Options or NYSE Arca Options markets, as there are no options data products that integrate, or include data elements from, other option data products in the same manner that the NYSE, NYSE MKT and NYSE Arca Integrated Feeds integrate, or include data elements from, equity Included Data Products.

In order to connect to a Premium NYSE Data Product, a User enters into a contract with the provider of such data, pursuant to which it is charged for the Premium NYSE Data Product for the same market. After the data provider and User enter into the contract and the Exchange receives authorization from the data provider, the Exchange provides the User with connectivity to the Premium NYSE Data Product over the User's LCN or IP network port. The Exchange charges the User for the connectivity to the Premium NYSE Data Product. A User only receives, and is only charged for, connectivity to the Premium NYSE Data Product feeds that it selects.

The Premium NYSE Data Products are available over both the LCN and IP network.[24] For a User that purchases access to the LCN and IP network, the Exchange works with such User to allocate its connectivity to Premium NYSE Data Products between its LCN and IP network connections. Some Premium NYSE Data Products require a network connection with a minimum Gb size in order to accommodate the feed.[25]

A User can opt to connect to a Premium NYSE Data Product as a resilient feed or as Feed A or Feed B. Connectivity to the two identical Feeds A and B is only available on the IP network.

The Exchange charges a monthly recurring fee for connectivity to Premium NYSE Data Products. The following table shows the Premium NYSE Data Products and corresponding monthly recurring connectivity fees.

Premium NYSE data product	Feed	Monthly recurring connectivity fee per feed
NYSE Arca Integrated Feed	Feed A, IP network only	$1,500
	Feed B, IP network only	1,500
	Resilient, IP network only	3,000
	Resilient, LCN only	1,500
NYSE Best Quote and Trades (BQT)	Feed A, IP network only	500
	Feed B, IP network only	500
	Resilient, IP network only	1,000
	Resilient, LCN only	500
NYSE Integrated Feed	Feed A, IP network only	1,500
	Feed B, IP network only	1,500
	Resilient, IP network only	3,000
	Resilient, LCN only	1,500
NYSE MKT Integrated Feed	Feed A, IP network only	300
	Feed B, IP network only	300
	Resilient, IP network only	600
	Resilient, LCN only	300

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[20] The rule changes establishing the NYSE Integrated Feed and NYSE MKT Integrated Feed were immediately effective in 2015, and the rule change establishing the NYSE Arca Integrated Data Feed was immediately effective in 2011. The NYSE Best Quote & Trades ("NYSE BQT") data feed was approved in 2014. *See* Securities Exchange Act Release Nos. 74128 (Jan. 23, 2015), 80 FR 4951 (Jan. 29, 2015) (SR–NYSE–2015–03) (establishing the NYSE Integrated Feed); 74127 (Jan. 23, 2015), 80 FR 4956 (Jan. 29, 2015) (SR–NYSEMKT–2015–06) (establishing the NYSE MKT Integrated Feed); 65669 (Nov. 2, 2011), 76 FR 69311 (Nov. 8, 2011) (SR–NYSEArca–2011–78) (establishing the NYSE Arca Integrated Feed); and 73553 (Nov. 6, 2014), 79 FR 67491 (Nov. 13, 2014) (SR–NYSE–2014–40) (establishing the NYSE Best Quote & Trades Data Feed).

[21] *See* SR–NYSE–2015–03, *supra* note 18, at 4952.

[22] *See* SR–NYSE–2014–40, *supra* note 18, at 67491.

[23] *See* Securities Exchange Act Release Nos. 44138 (December 7, 2001), 66 FR 64895 (December 14, 2001) (SR–NYSE–2001–42) (establishing fees for NYSE OpenBook); 50844 (December 13, 2004), 69 FR 76806 (December 22, 2004) (SR–NYSE–2004–53) (establishing fee for NYSE Alerts); 59543 (March 9, 2009), 74 FR 11159 (March 16, 2009) (establishing fee for NYSE Order Imbalances); 59290 (January 23, 2009) 74 FR 5707 (January 30, 2009) (SR–NYSE–2009–05) (establishing pilot program for NYSE Trades); and 62181 (May 26, 2010), 75 FR 31488 (June 3, 2010) (SR–NYSE–2010–30) (establishing NYSE BBO). *See also* Securities Exchange Act Release No. 76968 (January 22, 2016), 81 FR 4689 (January 27, 2016) (establishing NYSE Arca Order Imbalances). NYSE Arca Order Imbalances, NYSE Order Imbalances and NYSE MKT Order Imbalances are all Included Data Products.

[24] As noted above, certification and testing feeds included with a Premium NYSE Data Product are only available over the IP network.

[25] *See* note 13, *supra*.

In addition to the connectivity fees, the Exchange proposes to add the following language to its Price List:

> Pricing for Premium NYSE Data Products is for connectivity only. Connectivity to Premium NYSE Data Products is subject to any technical provisioning requirements and authorization from the provider of the data feed. Market data fees for the Premium NYSE Data Products are charged by the provider of the data feed. The Exchange is not the exclusive method to connect to Premium NYSE Data Products.

Connectivity to Third Party Systems

The Exchange proposes to revise the Price List to provide that Users may obtain connectivity to Third Party Systems of multiple third party markets and other content service providers for a fee. Users connect to Third Party Systems over the IP network.[26] The Exchange selects what connectivity to Third Party Systems to offer in the data center based on User demand.

In order to obtain access to a Third Party System, a User enters into an agreement with the relevant third party content service provider, pursuant to which the third party content service provider charges the User for access to the Third Party System. The Exchange then establishes a unicast connection between the User and the relevant third party content service provider over the IP network. The Exchange charges the User for the connectivity to the Third Party System. A User only receives, and is only charged for, access to Third Party Systems for which it enters into agreements with the third party content service provider.

With the exception of the ICE feed,[27] the Exchange has no ownership interest in the Third Party Systems. Establishing a User's access to a Third Party System does not give the Exchange any right to use the Third Party Systems. Connectivity to a Third Party System does not provide access or order entry to the Exchange's execution system, and a User's connection to a Third Party System is not through the Exchange's execution system.[28]

The Exchange charges a monthly recurring fee for connectivity to a Third Party System. Specifically, when a User requests access to a Third Party System, it identifies the applicable third party market or other content service provider and what bandwidth connection it requires.

The monthly recurring fee the Exchange charges Users for unicast connectivity to each Third Party System varies by the bandwidth of the connection, as follows:

Bandwidth of connection to third party system	Monthly recurring fee per connection to third party system
1Mb	$200
3Mb	400
5Mb	500
10Mb	800
25Mb	1,200
50Mb	1,800
100Mb	2,500
200 Mb	3,000
1 Gb	3,500

The Exchange provides connectivity to the following Third Party Systems:

Americas Trading Group (ATG)
BATS
Boston Options Exchange (BOX)
Chicago Board Options Exchange (CBOE)
Credit Suisse
International Securities Exchange (ISE)
Nasdaq
National Stock Exchange
NYFIX Marketplace

In addition to the connectivity fees, the Exchange proposes to add language to its Price List stating the following:

> Pricing for access to the execution systems of third party markets and other service providers (Third Party Systems) is for connectivity only. Connectivity to Third Party Systems is subject to any technical provisioning requirements and authorization from the provider of the data feed. Connectivity to Third Party Systems is over the IP network. Any applicable fees are charged independently by the relevant third party content service provider. The Exchange is not the exclusive method to connect to Third Party Systems.

Connectivity to Third Party Data Feeds

The Exchange proposes to revise the Price List to provide that Users may obtain connectivity to Third Party Data Feeds for a fee. The Exchange receives Third Party Data Feeds from multiple national securities exchanges and other content service providers at its data center. It then provides connectivity to that data to Users for a fee. With the exceptions of Global OTC and NYSE Global Index, Users connect to Third Party Data Feeds over the IP network.[29]

The Exchange notes that charging Users a monthly fee for connectivity to Third Party Data Feeds is consistent with the monthly fee Nasdaq charges its co-location customers for connectivity to third party data. For instance, Nasdaq charges its co-location customers monthly fees of $1,500 and $4,000 for connectivity to BATS Y and BATS, respectively, and of $2,500 for connectivity to EDGA or EDGX.[30]

In order to connect to a Third Party Data Feed, a User enters into a contract with the relevant third party market or other content service provider, pursuant to which the content service provider charges the User for the Third Party Data Feed. The Exchange receives the Third Party Data Feed over its fiber optic network and, after the data provider and User enter into the contract and the Exchange receives authorization from the data provider, the Exchange re-transmits the data to the User over the User's port. The Exchange charges the User for the connectivity to the Third Party Data Feed. A User only receives, and is only charged for, connectivity to the Third Party Data Feeds for which it enters into contracts.

With the exception of the Intercontinental Exchange ("ICE"), Global OTC and NYSE Global Index feeds,[31] the Exchange has no affiliation with the sellers of the Third Party Data Feeds. It has no right to use the Third Party Data Feeds other than as a redistributor of the data. The Third Party Data Feeds do not provide access or order entry to the Exchange's execution system. With the exception of the ICE feeds, the Third Party Data Feeds do not provide access or order entry to the execution systems of the third party generating the feed.[32] The Exchange receives Third Party Data Feeds via arms-length agreements and it has no inherent advantage over any other distributor of such data.

The Exchange charges a monthly recurring fee for connectivity to each

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[26] *See* IP Network Release, *supra* note 7, at 7889.

[27] ICE is owned by the Exchange's ultimate parent, Intercontinental Exchange, Inc., and so the Exchange has an indirect interest in the ICE feeds. The ICE feeds include both market data and trading and clearing services, but the Exchange includes it as a Third Party Data Feed. In order for a User to receive an ICE feed, ICE must provide authorization for the User to receive both data and trading and clearing services.

[28] The Exchange has a dedicated network connection to each of the Third Party Systems.

[29] *See* IP Network Release, *supra* note 7, at 7889 ("The IP network also provides Users with access to away market data products."). Users can connect to Global OTC and NYSE Global Index over the IP network or LCN.

[30] *See* Nasdaq Stock Market Rule 7034.

[31] ICE and the Global OTC alternative trading system are both owned by the Exchange's ultimate parent, Intercontinental Exchange, Inc., and so the Exchange has an indirect interest in the ICE and Global OTC feeds. The NYSE Global Index feed includes index and exchange traded product valuations data, with data drawn from the Exchange, the Affiliate SROs, and third party exchanges. Because it includes third party data, the NYSE Global Index feed is considered a Third Party Data Feed. As with all Third Party Data Feeds, the Exchange is not the exclusive method to connect to the ICE, Global OTC or NYSE Global Index feeds.

[32] Unlike other Third Party Data Feeds, the ICE feeds include both market data and trading and clearing services. In order to receive the ICE feeds, a User must receive authorization from ICE to receive both market data and trading and clearing services.

Third Party Data Feed. The monthly recurring fee is per Third Party Data Feed, with the exception that the monthly recurring feed for SuperFeed and MSCI varies by the bandwidth of the connection. Depending on its needs and bandwidth, a User may opt to receive all or some of the feeds or services included in a Third Party Data Feed.

The following table shows the feeds that connectivity to each Third Party Data Feed provides, together with the applicable monthly recurring fee.

Third party data feed	Monthly recurring connectivity fee per third party data feed
Bats BZX Exchange (BZX) and Bats BYX Exchange (BYX) ...	$2,000
Bats EDGX Exchange (EDGX) and Bats EDGA Exchange (EDGA)	2,000
Chicago Board Options Exchange (CBOE)	2,000
Chicago Stock Exchange (CHX)	400
Euronext	600
Financial Industry Regulatory Authority (FINRA)	500
Global OTC	100
Intercontinental Exchange (ICE)	1,500
Montréal Exchange (MX)	1,000
MSCI 5 Mb	500
MSCI 25 Mb	1,200
NASDAQ Stock Market	2,000
NASDAQ OMX Global Index Data Service	100
NASDAQ OMDF	100
NASDAQ UQDF & UTDF	500
NYSE Global Index	100
OTC Markets Group	1,000
SR Labs—SuperFeed ≤500 Mb	250
SR Labs—SuperFeed >500 Mb to ≤1.25 Gb	800
SR Labs—SuperFeed >1.25 Gb	1,000
TMX Group	2,500

In addition to the above connectivity fees, the Exchange proposes to add the following language to its Price List:

> Pricing for data feeds from third party markets and other content service providers (Third Party Data Feeds) is for connectivity only. Connectivity to Third Party Data Feeds is subject to any technical provisioning requirements and authorization from the provider of the data feed. Connectivity to Third Party Data Feeds is over the IP network, with the exception that Users can connect to Global OTC and NYSE Global Index over the IP network or LCN. Market data fees are charged independently by the relevant third party market or content service provider. The Exchange is not the exclusive method to connect to Third Party Data Feeds.

Third Party Data Feed providers may charge redistribution fees, such as Nasdaq's Extranet Access Fees and OTC Markets Group's Access Fees.[33] When the Exchange receives a redistribution fee, it passes through the charge to the User, without change to the fee. The fee is labeled as a pass-through of a redistribution fee on the User's invoice. The Exchange proposes to add language to the Price List accordingly.

The Exchange provides third party markets or content providers that are also Users connectivity to their own Third Party Data Feeds. The Exchange does not charge Users that are third party markets or content providers for connectivity to their own feeds, as in the Exchange's experience such parties generally receive their own feeds for purposes of diagnostics and testing. The Exchange proposes to add language to the Price List accordingly.

Connectivity to Third Party Testing and Certification Feeds

The Exchange offers Users connectivity to third party certification and testing feeds. Certification feeds are used to certify that a User conforms to any of the relevant content service provider's requirements for accessing Third Party Systems or receiving Third Party Data, while testing feeds provide Users an environment in which to conduct tests with non-live data.[34] Such feeds, which are solely used for certification and testing and do not carry live production data, are available over the IP network.

The Exchange proposes to revise the Price List to include connectivity to third party certification and testing feeds. The Exchange charges a connectivity fee of $100 per month per feed.

The Exchange proposes to add the following connectivity fees and language to its Price List:

Connectivity to third party certification and testing feeds.	$100 monthly recurring fee per feed.

> The Exchange provides connectivity to third party testing and certification feeds provided by third party markets and other content service providers. Pricing for third party testing and certification feeds is for connectivity only. Connectivity to third party testing and certification feeds is subject to any technical provisioning requirements and authorization from the provider of the data feed. Connectivity to third party testing and certification feeds is over the IP network. Any applicable fees are charged independently by the relevant third party market or content service provider. The Exchange is not the exclusive method to connect to third party testing and certification feeds.

Connectivity to DTCC

The Exchange provides Users connectivity to DTCC for clearing, fund transfer, insurance, and settlement services.[35] The Exchange proposes to revise the Price List to include connectivity to DTCC. The Exchange charges a connectivity fee of $500 per month for connections to DTCC of 5 Mb and $2,500 for connections of 50 Mb. Connectivity to DTCC is available over the IP network.

In order to connect to DTCC, a User enters into a contract with DTCC, pursuant to which DTCC charges the User for the services provided. The Exchange receives the DTCC feed over its fiber optic network and, after DTCC and the User enter into the services contract and the Exchange receives authorization from DTCC, the Exchange provides connectivity to DTCC to the User over the User's IP network port. The Exchange charges the User for the connectivity to DTCC.

Connectivity to DTCC does not provide access or order entry to the Exchange's execution system, and a User's connection to DTCC is not through the Exchange's execution system.

The Exchange proposes to add the following connectivity fees and language to its Price List:

5 Mb connection to DTCC.	$500 monthly recurring fee.
50 Mb connection to DTCC.	$2,500 monthly recurring fee.

> Pricing for connectivity to DTCC feeds is for connectivity only. Connectivity to DTCC feeds is subject to any technical provisioning requirements and authorization from DTCC. Connectivity to DTCC feeds is over the IP network. Any applicable fees are charged independently by DTCC. The Exchange is not the exclusive method to connect to DTCC feeds.

Virtual Control Circuits

Finally, the Exchange proposes to revise the Price List to offer VCCs between two Users. VCCs are connections between two points over dedicated bandwidth using the IP network. A VCC (previously called a "peer to peer" connection) is a two-way connection which the two participants can use for any purpose.

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[33] *See* NASDAQ Stock Market LLC Rule 7025, "Extranet Access Fee", and OTC Markets Market Data Distribution Agreement Appendix B, "Fees" at *http://www.otcmarkets.com/content/doc/market-data-fees-2016.pdf. See also* Securities Exchange Act Release No. 74040 (January 13, 2015), 80 FR 2460 (January 16, 2015) (SR–NASDAQ–2015–003).

[34] For example, a User that trades on a third party exchange may wish to test the exchange's upcoming releases and product releases or may wish to test a new algorithm in a testing environment prior to making it live.

[35] Such connectivity to DTCC is distinct from the access to shared data services for clearing and settlement services that a User receives when it purchases access to the LCN or IP network. The shared data services allow Users and other entities with access to the Trading Systems to post files for settlement and clearing services to access.

The Exchange bills the User requesting the VCC, but will not set up a VCC until the other User confirms that it wishes to have the VCC set up.

The Exchange proposes to revise the Price List to include VCCs between two Users. The fee for VCCs is based on the bandwidth utilized, as follows:

Type of service	Description (Mb)	Amount of charge (monthly)
Virtual Control Circuit between two Users.	1	$200
	3	400
	5	500
	10	800
	25	1,200
	50	1,800
	100	2,500

General

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (*e.g.*, a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis;[36] and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or both of its Affiliate SROs.[37]

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[38] in general, and furthers the objectives of Sections 6(b)(5) of the Act,[39] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed changes remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because, by offering Access and Connectivity, the Exchange gives each User additional options for addressing its access and connectivity needs, responding to User demand for access and connectivity options. Providing Access and Connectivity helps each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of access and connectivity that best suits its needs. The Exchange provides Access and Connectivity as conveniences to Users. Use of Access or Connectivity is completely voluntary, and each User has several other access and connectivity options available to it. As alternatives to using the Access and Connectivity provided by the Exchange, a User may access or connect to such services and products through another User or through a connection to an Exchange access center outside the data center, third party access center, or third party vendor. The User may make such connection through a third party telecommunication provider, third party wireless network, the SFTI network, or a combination thereof.

Co-location was created to permit Users "to rent space on premises controlled by the Exchange in order that they may locate their electronic servers in close physical proximity to the Exchange's trading and execution systems."[40] The Exchange believes that providing Users access to the Exchange Systems and connectivity to Included Data Products to Users with their purchase of access to the LCN or IP network, as well as revising the Price List to provide a more detailed description of such access and connectivity, would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because such access and connectivity is directly related to the purpose of co-location. In addition, the proposed changes would make the descriptions of access to the LCN and IP network more accessible and transparent, thereby providing market participants with clarity as to what connectivity is included in the purchase of access to the LCN and IP network.

The Exchange believes that providing access to Third Party Systems and connectivity to Premium NYSE Data Products, Third Party Data Feeds, third party testing and certification feeds and DTCC, as well as revising the Price List to describe such services, would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because the proposed changes would make the descriptions of market participants' access and connectivity options and the related fees more accessible and transparent, thereby providing market participants with clarity as to what options for connectivity are available to them and what the related costs are.

In addition, the Exchange believes that providing connectivity to third party testing and certification feeds removes impediments to, and perfects the mechanisms of, a free and open market and a national market system and, in general, protects investors and the public interest because such feeds provide Users an environment in which to conduct tests with non-live data, including testing for upcoming releases and product enhancements or the User's own software development, and allow Users to certify conformance to any applicable technical requirements.

Similarly, the Exchange believes that providing connectivity to DTCC removes impediments to, and perfects the mechanisms of, a free and open market and a national market system and, in general, protects investors and the public interest because it provides efficient connection to clearing, fund transfer, insurance, and settlement services.

The Exchange believes that providing Users with VCCs removes impediments to, and perfects the mechanisms of, a free and open market and a national market system because VCCs provide each User with an additional option for connectivity to another User, helping it tailor its data center operations to the requirements of its business operations by allowing it to select the form of connectivity that best suits its needs. The Exchange provides VCCs as a convenience to Users. Use of a VCC is completely voluntary. As an alternative to an Exchange-provided VCC, a User may connect to another User through a cross connect.

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[36] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies in sending orders to, and receiving market data from, the Exchange.

[37] *See* SR–NYSE–2013–59, *supra* note 5 at 51766. The Affiliate SROs have also submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSEMKT–2016–63 and SR–NYSEArca–2016–89.

[38] 15 U.S.C. 78f(b).

[39] 15 U.S.C. 78f(b)(5).

[40] Original Co-Location Filing, *supra* note 4, at 59310.

The Exchange also believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[41] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed fees changes are consistent with Section 6(b)(4) of the Act for multiple reasons. The Exchange operates in a highly competitive market in which exchanges offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. Accordingly, the exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange.

The Exchange believes that the services and fees proposed herein are equitably allocated and not unfairly discriminatory because, in addition to the services being completely voluntary, they are available to all Users on an equal basis (*i.e.*, the same products and services are available to all Users). All Users that voluntarily select to access the Exchange Systems or connect to Included Data Products would not be subject to a charge above and beyond the fee paid for the relevant LCN or IP network access. All Users that voluntarily select to receive access to Third Party Systems, connectivity to Premium NYSE Data Products, Third Party Data Feeds, third party testing and certification feeds and DTCC, or a VCC between Users would be charged the same amount for the same services.

The Exchange believes that the services and fees proposed herein are reasonable, equitably allocated and not unfairly discriminatory because the Exchange provides Access and Connectivity as conveniences to Users. Use of Access or Connectivity is completely voluntary, and each User has several other access and connectivity options available to it. As alternatives to using the Access and Connectivity provided by the Exchange, a User may access or connect to such services and products through another User or through a connection to an Exchange access center outside the data center, third party access center, or third party vendor. The User may make such connection through a third party telecommunication provider, third party wireless network, the SFTI network, or a combination thereof. Users that opt to use Access or Connectivity would not receive access or connectivity that is not available to all Users, as all market participants that contract with the relevant market or content provider may receive access or connectivity. Similarly, the Exchange provides VCCs between Users as a convenience to Users. Use of a VCC is completely voluntary. As an alternative to an Exchange-provided VCC, a User may connect to another User through a cross connect.

Overall, the Exchange believes that the proposed charges are reasonable, equitably allocated and not unfairly discriminatory because the Exchange offers Access, Connectivity, and VCCs as conveniences to Users, and in doing so incurs certain costs. The expenses incurred and resources expended by the Exchange to provide these services generally include costs related to the data center facility hardware and technology infrastructure; maintenance and operational costs, such as the costs of responding to any production issues; and the costs related to the personnel required for initial installation and administration, monitoring, support and maintenance of such services. Since the inception of co-location, the Exchange has made numerous improvements to the network hardware and technology infrastructure and has established additional administrative controls. The Exchange has expanded the network infrastructure to keep pace with the increased number of services available to Users, including the increasing bandwidth required for Access and Connectivity, including resilient and redundant feeds. For example, the Exchange must ensure that the network infrastructure has the necessary bandwidth for connectivity to the Premium NYSE Data Products as well as the Included Data Products, as on a typical trading day no single Included Data Product will require as much bandwidth as a Premium NYSE Data Product for the same market. In addition, the Exchange incurs certain costs specific to providing connectivity to Third Party Data Feeds, Third Party Systems, third party testing and certification feeds and DTCC, including the costs of maintaining multiple connections to each Third Party Data Feed, Third Party System, and DTCC, allowing the Exchange to provide resilient and redundant connections; adapting to any changes made by the relevant third party; and covering any applicable fees (other than redistribution fees) charged by the relevant third party, such as port fees.

As noted above, co-location was created to permit Users "to rent space on premises controlled by the Exchange in order that they may locate their electronic servers in close physical proximity to the Exchange's trading and execution systems."[42] The expectation was that normally Users "would expect reduced latencies in sending orders to the Exchange and in receiving market data from the Exchange."[43] Accordingly, the Exchange believes that including access to the Exchange Systems and connectivity to Included Data Products with the purchase of access to the LCN or IP network is reasonable because such access and connectivity is directly related to the purpose of co-location.

In addition, the Exchange believes that including access to the Exchange Systems and connectivity to the Included Data Products with the purchase of access to the LCN or IP network is reasonable and not unfairly discriminatory because Users are not required to use any of their bandwidth to access Exchange Systems or connect to an Included Data Product unless they wish to do so. Rather, a User only receives access to the Exchange Systems and connectivity to the Included Data Products that it selects, and a User can change which of such access or connections it receives at any time, subject to authorization from the data provider or relevant Exchange or Affiliate SRO. Including access to the Exchange Systems and connectivity to the Included Data Products with the purchase of access to the LCN or IP network is a decision based on an assessment of the competitive landscape. As noted above, the Exchange operates in a highly competitive market. If a particular exchange charges excessive fees for co-location services—such as excessive fees for access to the local area network within the exchange's colocation space—affected market participants will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies. The Exchange believes that including connectivity to Included Data Products with the purchase of access to the LCN or IP network is consistent with Nasdaq's colocation service, which, apart from an installation fee, does not charge its co-located customers for connectivity to Nasdaq data.[44]

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[41] 15 U.S.C. 78f(b)(4).

[42] Original Co-Location Filing, *supra* note 4, at 59299.

[43] *Id.*

The Premium NYSE Data Products are equity market data products that are variants of the equity Included Data Products. Each Premium NYSE Data Product integrates, or includes data elements from, several Included Data Products. Charging separate fees for connectivity to Premium NYSE Data Products, as opposed to Included Data Products, is a decision based on an assessment of the competitive landscape. The Exchange believes that it is reasonable and not unfairly discriminatory to charge Users for connectivity to Premium NYSE Data Products because Users are not required to use any of their bandwidth to connect to a Premium NYSE Data product unless they wish to do, and each User has several other connectivity options available to it. The expenses incurred and resources expended by the Exchange to offer connectivity to the Premium NYSE Data Products include costs related to the data center facility hardware and technology infrastructure, such as the cost of ensuring that the network infrastructure has the necessary bandwidth for the Premium NYSE Data Products; maintenance and operational costs, such as the costs of responding to any production issues; and the costs related to the personnel required for initial installation and administration, monitoring, support and maintenance of the connectivity. By charging only those Users that receive connectivity to a Premium NYSE Data Product, only the Users that directly benefit from such connectivity support its cost.

The Exchange believes that its fees for connectivity to Premium NYSE Data Products are reasonable because they allow the Exchange to defray or cover the costs associated with offering Users connectivity to Premium NYSE Data Products while providing Users the benefit of reduced latency when connecting to data feeds that integrate, or include data elements from, several Included Data Products. Charging separate connectivity fees for Premium NYSE Data Products is a decision based on an assessment of the competitive landscape. As noted above, the Exchange operates in a highly competitive market. If a particular exchange charges excessive fees for co-location services—such as excessive fees for connectivity to the exchange's market data—affected market participants will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies. Although Nasdaq does not include connectivity to any of the Premium NYSE Data Products in its co-location services, the Exchange believes that the proposed fees are generally consistent with the fees that a Nasdaq co-location customer would pay for connectivity to the individual feeds included in a Premium NYSE Data Product. For example, the NYSE Integrated Feed includes, among other things, information available from three of the Included Data Products: NYSE OpenBook, NYSE Trades, and NYSE Order Imbalances. Nasdaq offers connectivity to two of those feeds, OpenBook Ultra and NYSE Trades, for which it would charge a co-located customer a combined monthly fee of $2,600.[45] The Exchange believes that it is reasonable to charge less for connectivity to the resilient Premium NYSE Data Products on the LCN than over the IP network, because Users do not have the option to connect to Feed A or Feed B over the LCN.

The Exchange believes that charging separate connectivity fees for Third Party Data Feeds and access to Third Party Systems, third party testing and certification feeds and connectivity to DTCC is reasonable and not unfairly discriminatory because, in the Exchange's experience, not all Users connect to Third Party Data Feeds, Third Party Systems, third party testing and certification feeds or DTCC. By charging only those Users that receive such connectivity, only the Users that directly benefit from it support its cost. In addition, Users are not required to use any of their bandwidth to connect to Third Party Data Feeds, third party testing and certification feeds or DTCC, or to access Third Party Systems, unless they wish to do so.

The Exchange believes the fees for connectivity to Third Party Data Feeds are reasonable because they allow the Exchange to defray or cover the costs associated with offering Users connectivity to Third Party Data Feeds while providing Users the convenience of receiving such Third Party Data Feeds within co-location, helping them tailor their data center operations to the requirements of their business operations by allowing them to select the form and latency of connectivity that best suits their needs. The Exchange believes that its proposed charges for connectivity to Third Party Data Feeds are similar to the connectivity fees Nasdaq imposes on its co-location customers. For instance, Nasdaq charges its co-location customers monthly fees of $1,500 and $4,000 for connectivity to BATS Y and BATS, respectively, and of $2,500 for connectivity to EDGA or EDGX.[46]

The Exchange believes that its connectivity fees for access to Third Party Systems are reasonable because they allow the Exchange to defray or cover the costs associated with offering such access while providing Users the convenience of being able to access such Third Party Systems, helping them tailor their data center operations to the requirements of their business operations by allowing them to select the form and latency of connectivity that best suits their needs. Similarly, the Exchange believes that its fees for connectivity to DTCC are reasonable because they allow the Exchange to defray or cover the costs associated with offering such access while providing Users the benefit of an efficient connection to clearing, fund transfer, insurance, and settlement services.

The monthly recurring fees the Exchange charges Users for connectivity to Third Party Systems, the MSCI and SuperFeed Third Party Data Feeds, and DTCC, as well as for VCCs between Users, vary by the bandwidth of the connection. The Exchange also believes such fees are reasonable because the monthly recurring fee varies by the bandwidth of the connection, and so is generally proportional to the bandwidth required. The Exchange notes that some of the monthly recurring fees for connectivity to SuperFeed and DTCC differ from the fees for the other connections of the same bandwidth. The Exchange believes that such difference in pricing is reasonable, equitably allocated and not unfairly discriminatory because, although the bandwidth may be the same, the competitive considerations and the costs the Exchange incurs in providing such connections and VCCs may differ.

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[44] *See* Nasdaq Stock Market Rule 7034.

[45] *Id.*

[46] *See* Nasdaq Stock Market Rule 7034.

The Exchange also believes that its connectivity fees for access to third party testing and certification feeds are reasonable because they allow the Exchange to defray or cover the costs associated with offering such access while providing Users the benefit of having an environment in which to conduct tests with non-live data, including testing for upcoming releases and product enhancements or the User's own software development, and to certify conformance to any applicable technical requirements.

The Exchange believes it is reasonable that redistribution fees charged by providers of Third Party Data Feeds are passed through to the User, without change to the fee. If not passed through, the cost of the re-distribution fees would be factored into the proposed fees for connectivity to Third Party Data Feeds. The Exchange believes that passing through the fees makes them more transparent to the User, allowing the User to better assess the cost of the connectivity to a Third Party Data Feed by seeing the individual components of the cost, *i.e.* the Exchange's fee and the redistribution fee.

The Exchange believes that it is reasonable that it does not charge third party markets or content providers for connectivity to their own Third Party Data Feeds, as in the Exchange's experience such parties generally receive their own feeds for purposes of diagnostics and testing. The Exchange believes that it removes impediments to, and perfects the mechanisms of, a free and open market and a national market system and, in general, protects investors and the public interest to facilitate such diagnostics and testing.

Finally, the Exchange also believes that its fees for VCCs between two Users are reasonable because they allow the Exchange to defray or cover the costs associated with offering such VCCs while providing Users the benefit of an additional option for connectivity to another User, helping them tailor their data center operations to the requirements of their business operations by allowing them to select the form of connectivity that best suits their needs. As an alternative to an Exchange-provided VCC, a User may connect to another User through a cross connect.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[47] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because, in addition to the proposed services being completely voluntary, they are available to all Users on an equal basis (*i.e.* the same products and services are available to all Users).

The Exchange believes that providing Users with access to the Exchange Systems and Third Party Systems and connectivity to NYSE Data Products, Third Party Data Feeds, third party testing and certification feeds, and DTCC does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because such Access and Connectivity satisfies User demand for access and connectivity options, and each User has several other access and connectivity options available to it. As alternatives to using the Access and Connectivity provided by the Exchange, a User may access or connect to such services and products through another User or through a connection to an Exchange access center outside the data center, third party access center, or third party vendor. The User may make such connection through a third party telecommunication provider, third party wireless network, the SFTI network, or a combination thereof. Users that opt to use Access or Connectivity would not receive access or connectivity that is not available to all Users, as all market participants that contract with the relevant market or content provider may receive access or connectivity. In this way, the proposed changes would enhance competition by helping Users tailor their Access and Connectivity to the needs of their business operations by allowing them to select the form and latency of access and connectivity that best suits their needs.

Similarly, the Exchange believes that providing VCCs between Users does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because providing VCCs satisfies User demand for an alternative to cross connects.

The Exchange believes that revising the Price List to provide a more detailed description of the Access and Connectivity available to Users would make such descriptions more accessible and transparent, thereby providing market participants with clarity as to what Access and Connectivity is available to them and what the related costs are, thereby enhancing competition by ensuring that all Users have access to the same information regarding Access and Connectivity.

Finally, the Exchange operates in a highly competitive market in which exchanges offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. Accordingly, the exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the

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[47] 15 U.S.C. 78f(b)(8).

Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–NYSE–2016–45 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSE–2016–45. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSE–2016–45, and should be submitted on or before October 17, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[48]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–23046 Filed 9–23–16; 8:45 am]

BILLING CODE 8011–01–P

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[48] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78885; File No. SR–CBOE–2016–064]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Relating to SPX Combo Orders

September 20, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 8, 2016, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to amend its rules related to SPX Combo Orders. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rules 24.20, *SPX Combo Orders,* and 6.42, *Minimum Increment for Bids and Offers,* to specify the manner in which the minimum increment provision of Rule 6.42 applies to SPX Combo Orders.

Background

An SPX Combo Order consists of an order to purchase or sell one or more SPX option series (hereinafter the "non-SPX combination") and the offsetting number of "SPX combinations" defined by the delta.[3] For purposes of an SPX Combo Order, an SPX combination is a purchase (sale) of an SPX call and sale (purchase) of an SPX put having the same expiration date and strike price. Additionally, the delta is the positive (negative) number of SPX combinations that must be sold (bought) to establish a market neutral hedge with one or more SPX option series (*i.e.,* the non-SPX combination).[4]

SPX traders commonly hedge their options positions with SPX combinations, also called "synthetic futures," which, as the above definition provides, are created by combining long(short) SPX calls with short(long) SPX puts of the same series, in lieu of hedging with the actual S&P 500 futures contract trading at CME. The individual legs of the SPX combination are priced such that a value for the SPX combination is established which is equivalent to the value of a future at a level at which the trader wishes to make the underlying futures market "static." Then, based on the static value established by the SPX combination that has been quoted, the trader will request a market for the non-SPX combination that he wishes to trade, and will indicate the delta of the non-SPX combination. An SPX trader will execute the SPX combination in conjunction with the non-SPX combination, taking into account the delta of the particular options making up the non-SPX combination, such that the combined positions will create a

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Rule 24.20(a)(3).

[4] *See* Rule 24.20(a)(1) and (2).

"delta neutral" hedge.[5] For example, a customer that wants to purchase 100 SPX calls that have a delta of "30" (30% or .30) may hedge against a downward movement in the S&P 500 Index by selling 30 SPX combinations (.30 × 100). In other words, the SPX combination in this example will be to sell 30 SPX calls and buy 30 SPX puts with the same strike price and expiration date.

When the non-SPX combination is paired with an SPX combination the non-SPX combination can be described as being "tied" to the value of a future because the non-SPX combination is tied to an SPX combination that is equivalent to the value of a future. The concept of an option being "tied" to an underlying value extends to stock-option orders.[6] For example, floor brokers may represent an order to buy an AAPL call tied to the sale of AAPL stock at a specified price. The price at which the crowd is willing to sell the call is dependent on the specified price of the AAPL stock. For purposes of this example, assume the specified price is $99. The crowd may be willing to sell the call for $5.00 tied to AAPL stock at $99. If the specified price of AAPL stock was instead $100, the crowd's market for the call would change. If the broker is unable to execute the stock portion of the order at the specified price of $99, the option portion of the order also cannot be executed. Similarly, a broker representing an SPX Combo Order may be unable to execute the SPX combination portion of the order at the desired futures level because the individual leg prices of the SPX combination that would create the equivalent futures value are outside the market for the leg prices.

Minimum Increment Applicable to SPX Combo Orders

Currently, SPX Combo Orders are treated as complex orders for the purposes of the minimum increment provision of Rule 6.42(4).[7] Although Rule 24.20 does not explicitly specify the minimum increment applicable to SPX Combo Orders,[8] or reference how the minimum increment provision of Rule 6.42(4) applies to SPX Combo Orders, the Exchange believes the original intent was for SPX Combo Orders to be considered "complex orders" for the purposes of the minimum increment. In support of this conclusion the Exchange notes that Rule 6.42(4)(b) states that "complex orders are subject to special priority requirements as described in Rules 6.45, 6.45A, 6.45B, 6.53C, 24.19 and 24.20."[9] The Exchange believes referencing Rule 24.20 in this manner demonstrates the intent to include SPX Combo Orders as complex orders for purposes of the minimum increment provision.

Although the Exchange believes the intent was to include SPX Combo Orders as complex orders for purposes of the minimum increment, the Exchange also believes there is confusion amongst members of the trading crowd regarding the applicable minimum increment. The Exchange believes the confusion has arisen because Interpretation and Policy .01 to Rule 6.42 does not specifically identify SPX Combo Orders as complex orders; rather, Rule 6.42.01 states:

> For purposes of this rule [6.42], "complex order" means a spread, straddle, combination or ratio order as defined in Rule 6.53,[10] a stock-option order as defined in Rule 1.1(ii), a security future-option order as defined in Rule 1.1(zz), or any other complex order as defined in Rule 6.53C.[11]

As the definitions of spread, straddle, combination and ratio order do not specifically identify SPX Combo Orders, the Exchange believes confusion has arisen with respect to whether an SPX Combo Order is a complex order for purposes of the minimum increment.

In addition, the current interpretation that an SPX Combo Order is technically a complex order for purposes of the minimum increment (meaning all legs can be executed in $0.01 increments) does not fit how SPX Combo Orders are generally executed. In general, the only time legs of an SPX Combo Order are executed in $0.01 increments is in relation to a non-SPX combination with multiple legs. When the non-SPX combination is a single leg, the trading crowd generally executes the non-SPX combination in $0.05 or $0.10 increments, even though the current interpretation allows the legs to be executed in $0.01 increments. The Exchange notes that it is not a violation to execute a single leg non-SPX combination in $0.01, $0.05 or $.10

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[5] The entire SPX Combo Order consisting of the SPX combination portion and the non-SPX combination portion must be executed as a package.

[6] A stock-option order is an order to buy or sell a stated number of units of an underlying or a related security coupled with either (a) the purchase or sale of option contract(s) on the opposite side of the market representing either the same number of units of the underlying or related security or the number of units of the underlying security necessary to create a delta neutral position or (b) the purchase or sale of an equal number of put and call option contracts, each having the same exercise price, expiration date and each representing the same number of units of stock as, and on the opposite side of the market from, the underlying or related security portion of the order. Rule 1.1(ii).

[7] Rule 6.42(4) states that except as provided in Rule 6.53C, bids and offers on complex orders, as defined in Interpretation and Policy .01 [to Rule 6.42], may be expressed in any net price increment (that may not be less than $0.01) that may be determined by the Exchange on a class-by-class basis and announced to the Trading Permit Holders via Regulatory Circular, regardless of the minimum increments otherwise appropriate to the individual legs of the order. Notwithstanding the foregoing sentence, bids and offers on complex orders in options on the S&P 500 Index (SPX), p.m.-settled S&P 500 Index (SPXPM) or on the S&P 100 Index (OEX and XEO), except for box/roll spreads, shall be expressed in decimal increments no smaller than $0.05 or in any increment, as determined by the Exchange on a class-by-class basis and announced to the Trading Permit Holders via Regulatory Circular. In addition: (a) The legs of a complex order may be executed in $0.01 increments; and (b) complex orders are subject to special priority requirements as described in Rules 6.45, 6.45A, 6.45B, 6.53C, 24.19 and 24.20.

[8] Rule 24.20(b)(2) uses the term "minimum increment" but only in reference to the priority requirements for SPX Combo Orders, stating that: "[w]hen a Trading Permit Holder holding an SPX Combo Order with the required combo indicator and bidding or offering in a multiple of the minimum increment on the basis of a total debit or credit for the order has determined that the order may not be executed by a combination of transaction with the bids and offers displayed in the SPX limit order book or by the displayed quotes of the crowd, then the order may be executed at the best net debit or credit so long as (A) no leg of the order would trade at a price outside the currently displayed bids or offers in the trading crowd or bids or offers in the SPX limit order book and (B) at least on leg of the order would trade at a price that is better than the corresponding bid or offer in the SPX limit order book."

[9] *See* Rule 6.42(4)(b).

[10] A spread order is defined as "an order to buy a stated number of option contracts and to sell the same number of option contracts, or contracts representing the same number of shares at option, of the same class of options." *See* Rule 6.53(d). A combination order is defined as "an order involving a number of call option contracts and the same number of put option contracts in the same underlying security. In the case of adjusted option contracts, a combination order need not consist of the same number of put and call contracts if such contracts both represent the same number of shares at option." *See* Rule 6.53(e). A straddle order is defined as "an order to buy a number of call option contracts and the same number of put option contracts on the same underlying security which contracts have the same exercise price and expiration date; or an order to sell a number of call option contracts and the same number of put option contracts on the same underlying security which contracts have the same exercise price and expiration date. (E.g., an order to buy two XYZ July 50 calls and to buy two July 50 XYZ puts is a straddle order.) In the case of adjusted option contracts, a straddle order need not consist of the same number of put and call contracts if such contracts both represent the same number of shares at option." *See* Rule 6.53(f). A ratio order is defined as "a spread, straddle, or combination order in which the stated number of option contracts to buy (sell) is not equal to the stated number of option contracts to sell (buy), provided that the number of contracts differ by a permissible ratio. For purposes of this section, a permissible ratio is any ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00). For example, a one-to-two (.5) ratio, a two-to-three (.667) ratio, or a two-to-one (2.00) ratio is permissible, whereas a one-to-four (.25) ratio or a four-to-one (4.0) ratio is not." *See* Rule 6.53(n).

[11] Rule 6.53C is inapplicable to SPX Combo Orders because SPX Combo Orders may be executed in open outcry only whereas Rule 6.53C governs complex orders submitted to the Hybrid System for electronic handling.

increments. To illustrate, if the legs were required to be executed in $0.05 increments, for example, and the legs were instead executed in $0.01 increments, it would be a violation. Here, however, the situation is reversed—$0.01 increments are allowed, which automatically allows larger increment executions. Furthermore, the Exchange believes the reason single legged non-SPX combinations are generally executed in $0.05 or $0.10 increments is because executing a single leg non-SPX combination portion in $0.01 increments makes it difficult to attain a net execution price in $0.05 increments for the entire package.[12] For example, if the net execution price of the SPX combination is $5.00, the execution price of a single leg non-SPX combination portion cannot be $1.01, $1.02, $1.03, or $1.04 for example, because the net execution price for the entire package would be in a net price increment less than $0.05. Additionally, a single legged non-SPX combination that is tied to an SPX combination is thought of in the same way as any single leg SPX option that is tied to an S&P 500 futures position. That is—an SPX option that is tied to an actual S&P 500 futures position would have to execute in $0.05 or $0.10 increments. Similarly, a single legged non-SPX combination is tied to an SPX combination that is equivalent to the futures; thus, it follows that the single legged non-SPX combination should be executed in the same increment that would be applicable if a customer was using the actual S&P 500 futures instead of the SPX combination. Customers reasonably should expect to receive an execution price on an individual leg that is in $0.05 or $0.10 increments.

Thus, in order to provide clarity regarding the minimum increment applicable to SPX Combo Orders, as well as to modify the Exchange's above interpretation in order to match the general practice of executing SPX Combo Orders, the Exchange proposes to add Rule 24.20.02 to provide as follows:

> The minimum increment applicable to SPX Combo Orders under Rule 6.42 is as follows:
>
> (a) The legs of the SPX combination portion of an SPX Combo Order may be executed in $0.01 increments and the entire SPX combination must be executed in net price increments no smaller than $0.05.[13]
>
> (b) If the non-SPX combination portion of an SPX Combo Order consists of one leg, the leg must be executed in increments no smaller than $0.05 if the execution price is below $3.00 and increments no smaller than $0.10 if the execution price is at or above $3.00.[14]
>
> (c) If the non-SPX combination portion of an SPX Combo Order consists of multiple legs, the individual legs may be executed in $0.01 increments and the entire non-SPX combination portion of the SPX Combo Order must be executed in net price increments no smaller than $0.05.[15]

When an SPX Combo Order is treated as a complex order for purposes of the minimum increment, as is currently the case, then the entire package may be executed at $0.05 increments and each individual leg may be executed at $0.01 increments.[16] For example, an SPX Combo Order consisting of the purchase of one SPX 2000 call for $41.35 and the offsetting SPX combination consisting of a sale of one SPX 2065 call for $23.02 and the purchase of one SPX 2065 put for $21.02 would have a net debit price of $39.35.

Applying the proposed rule to the above example provides that the non-SPX combination (the SPX 2000 call) is one leg that executes above $3.00; thus, it must be executed in $0.10 increments, which means it would have to execute at $41.30 or $41.40, instead of $41.35. The Exchange notes that the customer may in fact receive a better execution price because of this rule change because, in the above example, market participants may be willing to sell to a customer at $41.30 instead of $41.35. If instead the SPX Combo Order contained a non-SPX combination with two legs—one leg to buy an SPX 2000 call and one leg to buy an SPX 2010 call—tied to an SPX combination, each leg of the non-SPX combination could be executed in $0.01 increments, and the net execution price of the non-SPX combination package could be in net price increments of $0.05.[17]

The Exchange notes that the priority requirements of Rule 24.20(b)(2) will still apply to the entire SPX Combo Order. Thus, an SPX Combo Order will still be able to execute at the best net debit or credit so long as (A) no leg of the order would trade at a price outside the currently displayed bids or offers in the trading crowd or bids or offers in the SPX limit order book and (B) at least one leg of the order would trade at a price that is better than the corresponding bid or offer in the SPX limit order book.

Furthermore, as noted above, for an SPX Combo Order comprised of a non-SPX combination portion with one leg, the trading crowd's practice is generally to execute the non-SPX combination portion of an SPX Combo Order in $0.05 or $0.10 increments, because executing a single leg non-SPX combination portion in $0.01 increments makes it difficult to attain a net execution price in $0.05 increments for the entire package. As noted above, if the net execution price of the SPX combination is $5.00, the execution price of a single leg non-SPX combination portion cannot be $1.01, $1.02, $1.03, or $1.04 for example, because the net execution price for the entire package would be in a net price increment less than $0.05. Thus, the practice for the non-SPX combination portion, which is completely reasonable, is to provide markets in increments of $0.05 and $0.10 to ensure that the entire package is executed in a net execution price of $0.05 increments. Thus, the Exchange believes customers will not be adversely impacted by this rule change. The rules are simply being modified to meet the existing, general practice of the trading crowd. The Exchange notes that it is the trading crowd and their practices that have created a vibrant ecosystem for customers to execute SPX Combo Orders and modifying the rules to match the practice that has helped to create this ecosystem is logical and desirable.

Conclusion

The Exchange believes this proposal will provide clarity with regards to the minimum increment applicable to SPX Combo Orders and will prevent the inconsistent application of the minimum increment. Also, customers that want to hedge a single leg SPX option order with S&P 500 futures would be required to execute the SPX option in either $0.05 or $0.10 increments; therefore, customers reasonably should expect to be required to execute a single leg SPX option in either $0.05 or $0.10 increments when the single leg SPX option is tied to an SPX combination because the SPX combination is equivalent to an underlying futures level.

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[12] Because the current interpretation is an SPX Combo Order is a complex order for purposes of the minimum increment, the entire SPX Combo Order package must be executed in net price increments no smaller than $0.05 in accordance with Rule 6.42(4).

[13] Paragraph (a) will have no effect on customers as the current practice is in accordance with paragraph (a).

[14] Paragraph (b) is unlikely to have any effect on customers as the current practice is generally in accordance with paragraph (b); however, on very rare occasions members of the trading crowd currently execute a single legged non-SPX combination portion of an SPX Combo Order in $0.01 increments.

[15] Paragraph (c) will have no effect on customers as the current practice is in accordance with paragraph (c).

[16] *See* Rule 6.42(4) (stating that bids and offers on complex orders in options on the S&P 500 Index (SPX), p.m.-settled S&P 500 Index (SPXPM) or on the S&P 100 Index (OEX and XEO), except for box/roll spreads, shall be expressed in decimal increments no smaller than $0.05 and that the legs of a complex order may be executed in $0.01 increments).

[17] This is similar to how complex orders must be executed in net price increments no smaller than $0.05. *See* Rule 6.42(4).

Upon approval of this rule change, the Exchange will announce the implementation date of the proposed rule change in a Regulatory Circular to be published no later than 90 days following the approval date. The implementation date will be no later than 180 days following the approval date.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the "Act").[18] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[19] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[20] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes it is not clear from the rules what minimum increment applies to SPX Combo Orders and that specifying the minimum increment applicable to SPX Combo Orders will help to remove impediments to and perfect the mechanism of a free and open market and a national market system. Furthermore, the Exchange believes that essentially treating the non-SPX combination portion and the SPX combination as separate orders for purposes of the applicable minimum increment is consistent with the nature of SPX Combo Orders, which consist of a non-SPX combination tied to an underlying S&P Index value via the SPX combination. The Exchange believes maintaining consistency throughout its rules in this manner helps eliminate confusion in the marketplace, which helps to protect investors and the public interest generally. The consistency and clarity provided by this amendment will help to protect investors and the public interest generally. Finally, the Commission has already determined that it's consistent with the Act to require orders in SPX with only one leg (*i.e.,* orders that are not complex orders or SPX Combo Orders) to be executed in increments no smaller than $0.05 for option series below $3.00 and $.10 for all options series at or above $3.00.[21] Thus, it follows that requiring a one legged non-SPX combination portion of an SPX Combo Order to be executed in $0.05 and $0.10 in the same manner is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will apply to all SPX Combo Orders, and all TPHs that represent and compete for those orders, in the same manner. The Exchange believes that specifying the minimum increment applicable to SPX Combo Orders, and clarifying the manner in which these orders execute on the Exchange, promotes fair and orderly markets, as well as assists the Exchange in its ability to effectively attract order flow and liquidity to its market, and ultimately benefits all TPHs and all investors. Furthermore, any perceived burden on customers due to the fact that the single legged non-SPX combination portion of an SPX Combo Order must be executed in $0.05 or $0.10 increments pursuant to this rule (instead of $0.01 increments as is currently the Exchange's interpretation) is outweighed by the fact that the current practice of the trading crowd is to execute the single legged non-SPX combination in $0.05 or $0.10 increments and that the current practice enables the trading crowd to more quickly provide bids and offers that meet the minimum increment requirements. Furthermore, customers may in fact receive a better execution price on their SPX Combo Orders because TPHs competing for the order may improve their market by $0.05 or $0.10 instead of just $0.01. This rule change will only prevent the rare situation where a member is determined to execute a single legged non-SPX combination portion of an SPX Combo Order in $0.01 increments, which, again, is not a frequent occurrence. Furthermore, customers that want to hedge a single leg SPX option order with S&P 500 futures would be required to execute the SPX option in either $0.05 or $0.10 increments; therefore, customers reasonably should expect to be required to execute a single leg SPX option in either $0.05 or $0.10 increments when the single leg SPX option is tied to an SPX combination because the SPX combination is equivalent to an underlying futures level. Finally, the Commission has already determined that it's not unduly burdensome to competition to require orders in SPX with only one leg (*i.e.,* orders that are not complex orders or SPX Combo Orders) to be executed in increments no smaller than $0.05 for option series below $3.00 and $.10 for all options series at or above $3.00.[22] Thus, it follows that requiring a one legged non-SPX combination portion of an SPX Combo Order to be executed in $0.05 and $0.10 in the same manner is also not unduly burdensome on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

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[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(5).

[20] *Id.*

[21] *See* Rule 6.42(1)–(3).

[22] *See* Rule 6.42(1)–(3).

- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2016–064 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2016–064. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2016–064 and should be submitted on or before October 17, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–23044 Filed 9–23–16; 8:45 am]

BILLING CODE 8011–01–P

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[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78882; File No. TP 16–13]

Order Granting Limited Exemptions From Exchange Act Rule 10b–17 and Rules 101 and 102 of Regulation M to Amplify YieldShares Prime 5 Dividend ETF Pursuant to Exchange Act Rule 10b–17(b)(2) and Rules 101(d) and 102(e) of Regulation M

September 20, 2016.

By letter dated September 20, 2016 (the "Letter"), as supplemented by conversations with the staff of the Division of Trading and Markets, counsel for Amplify ETF Trust (the "Trust") on behalf of the Trust, Amplify YieldShares Prime 5 Dividend ETF (the "Fund"), any national securities exchange on or through which shares of the Fund ("Shares") are listed and may subsequently trade, and persons or entities engaging in transactions in Shares (collectively, the "Requestors"), requested exemptions, or interpretive or no-action relief, from Rule 10b–17 of the Securities Exchange Act of 1934, as amended ("Exchange Act"), and Rules 101 and 102 of Regulation M, in connection with secondary market transactions in Shares and the creation or redemption of aggregations of Shares of 50,000 shares ("Creation Units").

The Trust is registered with the Securities and Exchange Commission ("Commission") under the Investment Company Act of 1940, as amended ("1940 Act"), as an open-end management investment company. The Fund seeks to track the performance of an underlying index, the Prime 5 US Dividend ETF Index ("Underlying Index"). The Underlying Index seeks to provide exposure to the five highest-ranked dividend ETFs based on the index provider's scoring and selection criteria.

The Fund will seek to track the performance of its Underlying Index by normally investing at least 80% of its total assets in the underlying exchange-traded funds that comprise the Underlying Index.[1] In light of the composition of the Underlying Index, the Fund intends to operate as an "ETF of ETFs." Except for the fact that the Fund will operate as an ETF of ETFs, the Fund will operate in a manner identical to the underlying ETFs.

The Requestors represent, among other things, the following:

- Shares of the Fund will be issued by the Trust, an open-end management investment company that is registered with the Commission;
- Creation Units will be continuously redeemable at the net asset value ("NAV") next determined after receipt of a request for redemption by the Fund, and the secondary market price of the Shares should not vary substantially from the NAV of such Shares;
- Shares of the Fund will be listed and traded on BATS Exchange Inc. or another exchange in accordance with exchange listing standards that are, or will become, effective pursuant to Section 19(b) of the Exchange Act (the "Listing Exchange");[2]
- The Fund seeks to track the performance of the Underlying Index, all the components of which have publicly available last sale trade information;
- The Listing Exchange will disseminate continuously every 15 seconds throughout the trading day, through the facilities of the Consolidated Tape Association, the market value of a Share;
- The Listing Exchange, market data vendors or other information providers will disseminate, every 15 seconds throughout the trading day, a calculation of the intraday indicative value of a Share;
- On each business day before the opening of business on the Listing Exchange, the Fund will cause to be published through the National Securities Clearing Corporation the list of the names and the quantities of securities of the Fund's portfolio that will be applicable that day to creation and redemption requests;
- The arbitrage mechanism will be facilitated by the transparency of the Fund's portfolio and the availability of the intraday indicative value, the liquidity of securities held by the Fund, the ability to acquire such securities, as well as arbitrageurs' ability to create workable hedges;
- The Fund will invest solely in liquid securities;
- The Fund will invest in securities that will facilitate an effective and efficient arbitrage mechanism and the ability to create workable hedges;
- All ETFs in which the Fund invests will either meet all conditions set forth in one or more class relief letters, will have received individual relief from the Commission, will be able to rely on individual relief even though they are not named parties, or will be able to rely

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[1] The remaining 20% may be invested in securities with maturities of less than one year or cash equivalents, or the Fund may hold cash.

[2] Further, the Letter states that should the Shares also trade on a market pursuant to unlisted trading privileges, such trading will be conducted pursuant to self-regulatory organization rules that are or will become effective pursuant to Section 19(b) of the Exchange Act.

on applicable class relief for actively-managed ETFs;

- The Trust believes that arbitrageurs are expected to take advantage of price variations between the Fund's market price and its NAV; and
- A close alignment between the market price of Shares and the Fund's NAV is expected.

Regulation M

While redeemable securities issued by an open-end management investment company are excepted from the provisions of Rules 101 and 102 of Regulation M, the Requestors may not rely upon those exceptions for the Shares.[3] However, we find that it is appropriate in the public interest and is consistent with the protection of investors to grant a conditional exemption from Rules 101 and 102 to persons who may be deemed to be participating in a distribution of Shares of the Fund as described in more detail below.

Rule 101 of Regulation M

Generally, Rule 101 of Regulation M is an anti-manipulation rule that, subject to certain exceptions, prohibits any "distribution participant" and its "affiliated purchasers" from bidding for, purchasing, or attempting to induce any person to bid for or purchase any security that is the subject of a distribution until after the applicable restricted period, except as specifically permitted in the Rule. Rule 100 of Regulation M defines "distribution" to mean any offering of securities that is distinguished from ordinary trading transactions by the magnitude of the offering and the presence of special selling efforts and selling methods. The provisions of Rule 101 of Regulation M apply to underwriters, prospective underwriters, brokers, dealers, or other persons who have agreed to participate or are participating in a distribution of securities. The Shares are in a continuous distribution and, as such, the restricted period in which distribution participants and their affiliated purchasers are prohibited from bidding for, purchasing, or attempting to induce others to bid for or purchase extends indefinitely.

Based on the representations and facts presented in the Letter, particularly that the Trust is a registered open-end management investment company, that Creation Unit size aggregations of the Shares of the Fund will be continuously redeemable at the NAV next determined after receipt of a request for redemption by the Fund, and that a close alignment between the market price of Shares and the Fund's NAV is expected, the Commission finds that it is appropriate in the public interest and consistent with the protection of investors to grant the Trust an exemption under paragraph (d) of Rule 101 of Regulation M with respect to the Fund, thus permitting persons participating in a distribution of Shares of the Fund to bid for or purchase such Shares during their participation in such distribution.[4]

Rule 102 of Regulation M

Rule 102 of Regulation M prohibits issuers, selling security holders, and any affiliated purchaser of such person from bidding for, purchasing, or attempting to induce any person to bid for or purchase a covered security during the applicable restricted period in connection with a distribution of securities effected by or on behalf of an issuer or selling security holder.

Based on the representations and facts presented in the Letter, particularly that the Trust is a registered open-end management investment company, that Creation Unit size aggregations of the Shares of the Fund will be continuously redeemable at the NAV next determined after receipt of a request for redemption by the Fund, and that a close alignment between the market price of Shares and the Fund's NAV is expected, the Commission finds that it is appropriate in the public interest and consistent with the protection of investors to grant the Trust an exemption under paragraph (e) of Rule 102 of Regulation M with respect to the Fund, thus permitting the Fund to redeem Shares of the Fund during the continuous offering of such Shares.

Rule 10b–17

Rule 10b–17, with certain exceptions, requires an issuer of a class of publicly traded securities to give notice of certain specified actions (for example, a dividend distribution) relating to such class of securities in accordance with Rule 10b–17(b). Based on the representations and facts in the Letter, and subject to the conditions below, the Commission finds that it is appropriate in the public interest, and consistent with the protection of investors to grant the Trust a conditional exemption from Rule 10b–17 because market participants will receive timely notification of the existence and timing of a pending distribution, and thus the concerns that the Commission raised in adopting Rule 10b–17 will not be implicated.[5]

Conclusion

It is hereby ordered, pursuant to Rule 101(d) of Regulation M, that the Trust, based on the representations and facts presented in the Letter, is exempt from the requirements of Rule 101 with respect to the Fund, thus permitting persons who may be deemed to be participating in a distribution of Shares of the Fund to bid for or purchase such Shares during their participation in such distribution.

It is further ordered, pursuant to Rule 102(e) of Regulation M, that the Trust, based on the representations and the facts presented in the Letter, is exempt from the requirements of Rule 102 with respect to the Fund, thus permitting the Fund to redeem Shares of the Fund during the continuous offering of such Shares.

It is further ordered, pursuant to Rule 10b–17(b)(2), that the Trust, based on the representations and the facts presented in the Letter and subject to the conditions below, is exempt from the requirements of Rule 10b–17 with respect to transactions in the shares of the Fund.

This exemptive relief is subject to the following conditions:

- The Trust will comply with Rule 10b–17 except for Rule 10b–17(b)(1)(v)(a) and (b); and
- The Trust will provide the information required by Rule 10b–17(b)(1)(v)(a) and (b) to the Listing Exchange as soon as practicable before trading begins on the ex-dividend date, but in no event later than the time when the Listing Exchange last accepts information relating to distributions on the day before the ex-dividend date.

This exemptive relief is subject to modification or revocation at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act. This exemption is based on the facts presented and the representations made in the Letter. Any different facts or representations may require a different response. Persons relying upon this exemptive relief shall discontinue transactions involving the Shares of the Fund, pending presentation of the facts for the Commission's consideration, in the event that any material change occurs with respect to any of the facts or representations made by the Requestors and, as is the case with all preceding letters, particularly with respect to the close alignment between the market price of Shares and the Fund's NAV. In addition, persons relying on this exemption are directed to the anti-fraud and anti-manipulation provisions of the Exchange Act, particularly Sections 9(a), 10(b), and Rule10b–5 thereunder. Responsibility for compliance with these and any other applicable provisions of the federal securities laws must rest with the persons relying on this exemption. This Order should not be considered a view with respect to any other question that the proposed transactions may raise, including, but not limited to the adequacy of the disclosure concerning, and the applicability of other federal or state laws to, the proposed transactions.

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[3] While ETFs operate under exemptions from the definitions of "open-end company" under Section 5(a)(1) of the 1940 Act and "redeemable security" under Section 2(a)(32) of the 1940 Act, the Fund and its securities do not meet those definitions.

[4] Additionally, we confirm the interpretation that a redemption of Creation Unit size aggregations of Shares of the Fund and the receipt of securities in exchange by a participant in a distribution of Shares of the Fund would not constitute an "attempt to induce any person to bid for or purchase, a covered security during the applicable restricted period" within the meaning of Rule 101 of Regulation M and therefore would not violate that rule.

[5] We also note that timely compliance with Rule 10b–17(b)(1)(v)(a) and (b) would be impractical in light of the nature of the Fund. This is because it is not possible for the Fund to accurately project ten days in advance what dividend, if any, would be paid on a particular record date. Further, the Commission finds, based upon the representations of the Requestors in the Letter, that the provision of the notices as described in the Letter and subject to the conditions of this Order would not constitute a manipulative or deceptive device or contrivance comprehended within the purpose of Rule 10b–17.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–23043 Filed 9–23–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given that, pursuant to the provisions of the Government in the Sunshine Act, Public Law 99–409, the Securities and Exchange Commission will hold an Open Meeting on Wednesday, September 28, 2016, at 10:00 a.m., in the Auditorium, Room L–002.

The subject matter of the Open Meeting will be:

- The Commission will consider whether to adopt rules to establish enhanced standards for the operation and governance of certain clearing agencies pursuant to Section 17A of the Securities Exchange Act of 1934 and Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act.
- The Commission will consider whether to propose amendments to certain definitions in Rule 17Ad–22 related to clearing agencies pursuant to Section 17A of the Securities Exchange Act of 1934 and Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act.
- The Commission will consider whether to propose amendments to Rule 15c6–1 under the Securities Exchange Act of 1934 to shorten the standard settlement cycle for most broker-dealer transactions from three business days after the trade date to two business days after the trade date.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact Brent J. Fields in the Office of the Secretary at (202) 551–5400.

Dated: September 21, 2016.

Brent J. Fields,

Secretary.

[FR Doc. 2016–23325 Filed 9–22–16; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78888; File Nos. SR–NYSEARCA–2016–109; SR–NYSEMKT–2016–73]

Self-Regulatory Organizations; NYSE Arca, Inc.; NYSE MKT LLC; Order Approving Proposed Rule Changes To Provide for the Rejection of Certain Electronic Complex Orders

September 20, 2016.

I. Introduction

On August 3, 2016, NYSE Arca, Inc. ("NYSE Arca") and NYSE MKT LLC ("NYSE MKT") (each an "Exchange" and, together, the "Exchanges") filed with the Securities and Exchange Commission (the "Commission"), pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act"),[2] and Rule 19b–4 thereunder,[3] proposed rule changes to amend NYSE Arca Rule 6.91(b) and NYSE MKT Rule 980(d), respectively, to allow the Exchanges to reject certain Electronic Complex Orders.[4] The proposed rule changes were published for comment in the in the **Federal Register** on August 17, 2016.[5] The Commission received no comments regarding the proposals. This order approves the proposed rule changes.

II. Description of the Proposals

NYSE Arca and NYSE MKT each require market makers to use risk limitation mechanisms that automatically remove a market maker's quotes in all series of an options class when the market maker's risk settings are triggered.[6] The Exchanges state that the risk settings are designed to mitigate the risk of multiple executions against a market maker's quotes occurring simultaneously across multiple series and multiple options classes.[7] According to the Exchanges, the risk settings allow market makers to provide liquidity across potentially thousands of options series without being at risk of executing the full cumulative size of all of their quotes before being given adequate opportunity to adjust their quotes.[8]

An Electronic Complex Order may execute against quotes or individual orders comprising the Complex Order (the "leg markets"), or against Electronic Complex Orders resting in the Consolidated Book.[9] An incoming Electronic Complex Order will execute against customer interest in the leg markets before executing against resting Electronic Complex Orders at the same price (*i.e.*, at the same total net debit or credit), provided that the leg market interest can execute the Electronic Complex Order in full or in a permissible ratio.[10] When an Electronic

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[6] 17 CFR 200.30–3(a)(6) and (9).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] NYSE Arca Rule 6.91 defines "Electronic Complex Order" to mean, for purposes of that rule, "any Complex Order as defined in Rule 6.62(e) or any Stock/Option Order or Stock/Complex Order as defined in Rule 6.62(h) that is entered into the NYSE Arca System." NYSE MKT Rule 980 defines "Electronic Complex Order" to mean, for purposes of that rule, "any Complex Order as defined in Rule 900.3NY(e) that is entered into the System."

[5] *See* Securities Exchange Act Release Nos. 78546 (August 11, 2016), 81 FR 54867 ("NYSE Arca Notice"); and 78544 (August 11, 2016), 81 FR 54893 ("NYSE MKT Notice").

[6] *See* NYSE Arca Notice, 81 FR at 54868; and NYSE MKT Notice, 81 FR at 54893. Pursuant to NYSE Arca Rule 6.40(b)(3), (c)(3), and (d)(3), and NYSE MKT Rule 928(b)(3), (c)(3), and (d)(3), the Exchanges establish a time period during which their respective Systems calculate: (1) The number of trades executed by a market maker in a specified options class; (2) the volume of contracts executed by a market maker in a specified options class; or (3) the percentage of a market maker's quoted size in specified options class (the "risk settings"). When a market maker has breached its risk settings (*i.e.*, has traded more than the contract or volume limit or cumulative percentage limit of a class during the specified measurement interval), each Exchange's System cancels all of the market maker's quotes in that class until the market maker notifies the Exchange that it will resume submitting quotes. *See id. See also* NYSE Arca Rule 6.40, Commentary .02; and NYSE MKT Rule 980NY, Commentary .02.

[7] *See* NYSE Arca Notice, 81 FR at 54868; and NYSE MKT Notice, 81 FR at 54894.

[8] *See id.*

[9] *See id. See also* NYSE Arca Rule 6.91(a)(2)(ii); and NYSE MKT Rule 980NY(c)(ii).

[10] *See id.*

Complex Order executes against leg market interest, the execution of the individual legs is processed as a single transaction package, not as a series of individual transactions, because the execution of each leg of the Electronic Complex Order is contingent on the execution of the other legs of the order.[11] Because the market maker risk settings are calculated after the execution of all of the legs of the transaction, rather than after the execution of each individual leg of the transaction, an Electronic Complex Order that executes against leg market interest may execute before triggering a market maker's risk settings, essentially bypassing the risk settings.[12] The Exchanges note that if the same legs were sent as individual orders, rather than as components of a complex order, the risk settings might be triggered.[13]

According to the Exchanges, Electronic Complex Order where two or more legs are buying (selling) calls (puts) raise particular concerns because these "directional" complex orders are aggressively buying or selling volatility.[14] The Exchanges state that they have seen a recent increase in the use of directional complex orders as a way to trade against multiple series on the same side of the market without triggering Market Maker risk settings, thereby undermining the purpose of the risk settings.[15] To address this concern, the Exchanges propose to adopt NYSE Arca Rule 6.91(b)(4) and NYSE MKT Rule 980NY(d)(4), which provide that an Electronic Complex Order will be rejected if it is:

(i) Composed of two legs that are (a) both buy orders or both sell orders, and (b) both legs are calls or both legs are puts;[16] or

(ii) composed of three or more legs and (a) all legs are buy orders; or (b) all legs are sell orders.[17]

The Exchanges believe that the potential risk of the specified directional Electronic Complex Orders undermining the efficacy of market makers' risk settings outweighs any potential benefit to market participants submitting such orders packaged as Electronic Complex Orders.[18] The Exchanges also believe that the proposal will help to eliminate a degree of unnecessary risk borne by market makers when fulfilling their quoting obligations and encourage them to provide tighter and deeper markets, to the benefit of all market participants.[19] The Exchanges note that market participants will continue to be able to enter each leg of these directional complex orders as separate orders.[20] The Exchanges state that other exchanges have adopted rules designed to prevent complex orders from effectively bypassing market maker risk parameters.[21] Because of the non-traditional nature of directional complex orders, the Exchanges believe that it is unlikely that directional complex orders would execute against complex order interest.[22] Accordingly, the Exchanges believe that rejecting directional Electronic Complex Orders outright, rather than simply preventing them from executing against leg market interest, would have the same practical impact for order sending firms and would be the most effective and transparent means of handling these orders.[23] The Exchanges also believe that rejecting, and therefore preventing the execution of, directional Electronic Complex Orders provides clarity with respect to the disposition of the orders and assures that the market maker risk settings will operate as intended.[24]

Finally, the Exchanges propose to delete the words "Types of" from NYSE Arca Rule 6.91(b) and NYSE MKT Rule 980NY(d) because the subsequent paragraphs in the rules describe certain requirements for Electronic Complex Orders, rather than types of Electronic Complex Orders.[25]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule changes are consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[26] In particular, the Commission finds that the proposed rule changes are consistent with Section 6(b)(5) of the Act,[27] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposals are designed to prevent the Electronic Complex Orders specified in NYSE Arca Rule 6.91(b)(4) and NYSE MKT Rule 980NY(d)(4) from undermining the efficacy of market makers' risk settings. The Exchanges believe that preserving the efficacy of market makers' risk settings could reduce risks to market makers, thereby encouraging them to provide additional liquidity and narrower quote spreads.[28] The Commission notes that other options exchanges have adopted similar rules.[29] In addition, the Commission notes that market participants will be able to submit the individual component legs of the orders specified in NYSE Arca Rule 6.91(b)(4) and NYSE MKT Rule 980NY(d)(4) as separate orders for execution against leg market interest. Finally, the Commission believes that the deletion from NYSE Arca Rule 6.91(b) and NYSE MKT Rule 980NY(d) of references to "Types of" Electronic Complex Orders will help to assure that the Exchanges' rules clearly present the requirements applicable to Electronic Complex Orders.

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[11] *See* NYSE Arca Notice, 81 FR at 54868; and NYSE MKT Notice, 81 FR at 54894.

[12] *See id.*

[13] *See id.*

[14] *See id.* The Exchanges note that the majority of electronic complex orders are calendar and vertical spreads, butterflies and straddles, which are designed to hedge a potential move of the underlying security or to capture premium from an anticipated market event. *See id.*

[15] *See id.*

[16] The Exchanges states that the following types of orders would be rejected under NYSE Arca Rule 6.91(b)(4)(i) and NYSE MKT Rule 980NY(d)(4)(i): Buy Call 1, Buy Call 2; Sell Call 1, Sell Call 2; Buy Put 1, Buy Put 2; and Sell Put 1, Sell Put 2. *See* NYSE Arca Notice, 81 FR at 54869; and NYSE MKT Notice, 81 FR at 54894.

[17] The Exchanges state that the following types of orders would be rejected under NYSE Arca Rule 6.91(b)(4)(ii) and NYSE MKT Rule 980NY(d)(4)(ii): Buy Call 1, Buy Call 2, Buy Put 1; Buy Put 1, Buy Put 2, Buy Put 3; Buy Call 1, Buy Call 2, Buy Call 3; Buy Put 1, Buy Put 2, Buy Call 3; and Sell Put 1, Sell Put 2, Sell Call 1. *See id.*

[18] *See* NYSE Arca Notice, 81 FR at 54869; and NYSE MKT Notice, 81 FR at 54894.

[19] *See* NYSE Arca Notice, 81 FR at 54869; and NYSE MKT Notice, 81 FR at 54895.

[20] *See id.*

[21] *See* NYSE Arca Notice, 81 FR at 54869; NYSE MKT Notice, 81 FR at 54894. *See also* CBOE Rule 6.53C(d)(ii)(A)(2)(B) and ISE Rule 722(b)(3)(ii)(A) and (B) and Securities Exchange Act Release Nos. 73023 (September 9, 2014), 79 FR 55033 (order approving File No. SR–ISE–2014–10); 72986 (September 4, 2010), 79 FR 53798 (September 10, 2014) (order approving File No. SR–CBOE–2014–017); 77297 (March 4, 2016), 81 FR 12764 (March 10, 2016) (notice of filing and immediate effectiveness of File No. SR–CBOE–2016–014); and 76106 (October 8, 2015), 80 FR 62125 (October 15, 2015) (notice of filing and immediate effectiveness of File No. SR–CBOE–2014–081). The Exchanges acknowledge that CBOE and ISE do not reject the complex orders identified as presenting a risk to market makers. *See* NYSE Arca Notice, 81 FR at 54869; NYSE MKT Notice, 81 FR at 54894.

[22] *See* NYSE Arca Notice, 81 FR at 54869; and NYSE MKT Notice, 81 FR at 54895.

[23] *See id.*

[24] *See id.*

[25] *See* NYSE Arca Notice, 81 FR at 54868; and NYSE MKT Notice, 81 FR at 54894.

[26] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[27] 15 U.S.C. 78(b)(5).

[28] *See* NYSE Arca Notice, 81 FR at 54869; NYSE MKT Notice, 81 FR at 54895.

[29] *See* CBOE Rule 6.53C(d)(ii)(A)(2)(B) and ISE Rule 722(b)(3)(ii)(A) and (B). However, as noted above, CBOE and ISE do not reject the orders identified as presenting a risk to market makers.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[30] that the proposed rule changes (File Nos. SR–NYSEARCA–2016–109 and SR–NYSEMKT–2016–73) are approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–23047 Filed 9–23–16; 8:45 am]

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[30] 15 U.S.C. 78s(b)(2).

[31] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78886; File No. SR–NASDAQ–2016–101]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To Add Nasdaq Rule 7046 (Nasdaq Trading Insights)

September 20, 2016.

I. Introduction

On July 26, 2016, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to add Nasdaq Trading Insights, an optional market data service composed of four market data components. The proposed rule change was published for comment in the **Federal Register** on August 8, 2016.[3] On August 15, 2016, the Exchange filed Amendment No. 1 to the proposed rule change.[4] On September 19, 2016, the Exchange filed Amendment No. 2 to the proposed rule change.[5] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change, as modified by Amendment Nos. 1 and 2.

II. Description of the Proposed Rule Change, as Modified by Amendment Nos. 1 and 2

The Exchange proposes to offer Nasdaq Trading Insights, a new optional market data product that would be available to all of the Exchange's participants for subscription.[6] Nasdaq Trading Insights would be composed of four market data components: (a) Missed Opportunity—Liquidity; (b) Missed Opportunity—Latency; (c) Peer Benchmarking; and (d) Liquidity Dynamics Analysis.[7] All components of Nasdaq Trading Insights would be offered on a T+1 basis.[8]

The Missed Opportunity—Liquidity component would identify when an order from a market participant could have been increased in size and thus executed more shares.[9] The data included in this component would be unique for each subscribing market participant's port, and only that market participant would be eligible to receive this data (*i.e.*, a market participant would not be able to obtain any other market participant's data).[10] According to the Exchange, the Missed Opportunity—Liquidity component would provide greater visibility into what was missed in trading so subscribing market participants may improve their trading performance.[11]

The Missed Opportunity—Latency component would identify by how much time a marketable order missed executing a resting order that was cancelled or executed.[12] The data included in this component would be based only on the data of the subscribing market participant, and a market participant would not be able to receive another market participant's data.[13] According to the Exchange, as with the Missed Opportunity—Liquidity component, this component would provide greater visibility into what was missed in trading so subscribing market participants may improve their trading performance.[14]

The Peer Benchmarking component would rank the quality of a market participant's trading performance against its peers trading on Nasdaq.[15] Market participants would be able to view their own trading activity broken out by port with each being ranked independently for each metric against their peers.[16] The data included in this

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 78462 (August 2, 2016), 81 FR 52486 ("Notice").

[4] In Amendment No. 1, the Exchange revised the proposal to specify that a subscribing market participant would receive all four components of the Nasdaq Trading Insights product and would not be able to elect to subscribe to fewer than all four components of the product, as originally proposed. The Exchange also specified that the fee for the product, to be implemented in a separate proposed rule change, would be applicable to the full service and would not be assessed per individual component, as originally proposed. Because Amendment No. 1 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 1 is not subject to notice and comment. Amendment No. 1 is available on the Commission's Web site at: *https://www.sec.gov/comments/sr-nasdaq-2016-101/nasdaq2016101.shtml.*

[5] In Amendment No. 2, the Exchange made a technical correction to the proposed rule text to reflect the change it made in Amendment No. 1 that eliminated the ability of market participants to elect to subscribe to fewer than all four components of the Nasdaq Trading Insights product. Because Amendment No. 2 is technical in nature, Amendment No. 2 is not subject to notice and comment. Amendment No. 2 is available on the Commission's Web site at: *https://www.sec.gov/comments/sr-nasdaq-2016-101/nasdaq2016101.shtml.*

[6] *See* Notice, *supra* note 3, at 52489.

[7] *See* proposed Rule 7046. *See also* Amendment No. 1, *supra* note 4 and Amendment No. 2, *supra* note 5. The Exchange will submit a separate filing to address pricing for Nasdaq Trading Insights. *See* Notice, *supra* note 3, at 52487 n.3.

[8] *See* Notice, *supra* note 3, at 52487–88.

[9] *See* proposed Rule 7046(a)(1). The data elements for this component, in summary, are: (i) Issue (Nasdaq symbol for the issue); (ii) Buy/Sell Indicator (side of the market at which the market participants are quoting); (iii) Price (the price (inclusive of decimal point) at which Nasdaq Market Center market participants had order interest for the given security at the given time); (iv) Order Reference Number (the unique reference number assigned to the new order at the time of receipt); (v) Order Entry Time Stamp (the time order was received in the system); (vi) Share Quantity (total number of shares submitted on original order); and (vii) Missed Opportunity Quantity (total number of shares missed). *See* Notice, *supra* note 3, at 52487 n.4.

[10] *See* Notice, *supra* note 3, at 52487.

[11] *See id.*

[12] *See* proposed Rule 7046(a)(2). The data elements for this component, in summary, are: (i) Issue (Nasdaq symbol for the issue); (ii) Buy/Sell Indicator (side of the market at which the market participants are quoting); (iii) Price (the price (inclusive of decimal point) at which Nasdaq Market Center market participants had order interest for the given security at the given time); (iv) Order Reference Number (the unique reference number assigned to the new order at the time of receipt); (v) Order Size; (vi) Matching Engine times for incoming orders; (vii) Missed Opportunity times; and (viii) Reasons for not getting fills. *See* Notice, *supra* note 3, at 52487 n.5. The Missed Opportunity—Latency component would not provide specific information about resting orders on the Exchange order book. *See id.* at 52487.

[13] *See* Notice, *supra* note 3, at 52487.

[14] *See id.*

[15] *See* proposed Rule 7046(a)(3). The data elements for this component, in summary, include: (i) Total Dollar Volume; (ii) Total Share Volume, Share Volume of Liquidity Provision and Accessible for Tape A, Tape B and Tape C; (iii) Number of Trades, including Hidden Orders and Number of Hidden Trades; (iv) Mean/Median Trade Size; (v) Mean/Median Size of Hidden Orders; (vi) Number of Buy/Sell Orders Received; (vii) Number of Aggressive Orders, Mean Size of Aggressive Buy/Sell Orders; (viii) Number of Passive Orders, Mean Size of Displayed Passive Order, Hidden Passive for Buy and Sell Orders; (ix) Number of Orders at Best Bid/Ask Level; (x) Mean Cost to Execute for Buy and Sell for 1000, 5000, 10000 Shares; (xi) Number of Modified/Cancelled Buy/Sell Orders; (xii) Mean Buy/Sell Price Range; (xiii) Total Number of Buy/Sell Price; (xiv) Number, Mean—Resting Buy/Sell Price Points; (xv) Missed Opportunities—Liquidity, Latency; (xvi) Mean Share Volume Against Hidden, Mean Quote Rotation Time. *See* Notice, *supra* note 3, at 52487 n.6.

[16] *See* Notice, *supra* note 3, at 52487–88. Each port would be categorized into a peer grouping that would be based upon a given set of metrics that

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component would be specific to a subscribing market participant's port and a market participant would not be able to receive another market participant's data.[17] According to the Exchange, this component would help subscribing market participants to have a better idea of how their competitors are performing vis-à-vis their own trading.[18] Moreover, according to the Exchange, this component would help subscribing market participants to better understand trending over time, their ranking, and whether their behavioral changes translate into expected results.[19]

The Liquidity Dynamics Analysis component would contain historical aggregated metrics and statistics regarding displayed and hidden liquidity on the Exchange for NMS securities listed on Nasdaq, the New York Stock Exchange, and other U.S. equity exchanges.[20] The data would be analyzed every 30 seconds, starting at 10 minutes prior to the market open to 10 minutes after the market close, and it would include all orders that are visible, anonymous, or non-displayed for each security.[21] According to the Exchange, subscribing market participants may use this component to better understand when accessible liquidity exists, which may help these market participants improve their trading performance.[22]

III. Discussion and Commission Findings

The Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[23] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[24] which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

As noted above, Nasdaq Trading Insights would be an optional market data product available to all of the Exchange's participants for subscription, and would be designed to provide additional information and insight to subscribing market participants regarding their trading activity on the Exchange.[25] Also, as noted above, Nasdaq Trading Insights would not be a real-time market data product and would be provided to subscribers on a T+1 basis.[26] Moreover, where Nasdaq Trading Insights data is specific to one market participant, only that market participant would receive such data.[27] According to the Exchange, some market participants may already be able to derive the same data that is provided by some of the Nasdaq Trading Insights components based on executions and algorithms that those market participants have created.[28] As the Exchange noted, Nasdaq Trading Insights would increase transparency, particularly for market participants who may not have the expertise to generate the same information.[29]

Based on the Exchange's representations with respect to the Nasdaq Trading Insights product and for the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[30] that the proposed rule change (SR–NASDAQ–2016–101), as modified by Amendment Nos. 1 and 2, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–23045 Filed 9–23–16; 8:45 am]

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would share similar trading behavior characteristics, and there would be at least ten peers within a security. *See id.* at 52488.

[17] *See id.* at 52488.

[18] *See id.*

[19] *See id.*

[20] *See* proposed Rule 7046(a)(4) and Notice, *supra* note 3, at 52488. The data elements for this component, in summary, are: (i) Issue (Nasdaq symbol for the issue); (ii) Start Time; (iii) End Time; (iv) Side (identifies buy vs. sell side); (v) Level (level associated with the price); (vi) Average Depth (average depth of the book); (vii) Minimum Depth (minimum depth of the book); (viii) Maximum Depth (maximum depth of the book); (ix) Standard Deviation Depth; (x) Average Price; (xi) Minimum Price (minimum price in the book); (xii) Maximum Price (maximum price in the book); (xiii) Median Price (median price in the book); (xiv) Standard Deviation—Price; (xv) Minimum Distance from the QBBO; (xvi) Maximum Distance from the QBBO; (xvii) Mean Distance from the QBBO; (xviii) Median Distance from the QBBO; and (xix) Standard Deviation-Distance from QBBO. *See* Notice, *supra* note 3, at 52488 n.7. This component would include statistics regarding quantity and price at each of the top five price levels per buy/sell side and per stated time period. *See* proposed Rule 7046(a)(4).

[21] *See* Notice, *supra* note 3, at 52488.

[22] *See id.* For a more detailed description of the proposed rule change, *see* Notice, *supra* note 3; Amendment No. 1, *supra* note 4; and Amendment No. 2, *supra* note 5.

[23] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[24] 15 U.S.C. 78f(b)(5).

[25] *See supra* notes 6, 11, 14, 18, 19, and 22, and accompanying text. *See also* Notice, *supra* note 3, at 52487.

[26] *See supra* note 8 and accompanying text.

[27] *See supra* notes 10, 13, and 17, and accompanying text.

[28] *See* Notice, *supra* note 3, at 52489.

[29] *See id.* at 52487.

[30] 15 U.S.C. 78s(b)(2).

[31] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 9726]

Department of State Bureau of South and Central Asian Affairs: Request for Proposals for the Design, Development, Installation, Operation, and Final Disposition of a U.S. Pavilion at the Astana Expo 2017

AGENCY: Department of State.

ACTION: Notice; Request for proposals.

SUMMARY: The Bureau of South and Central Asian Affairs (SCA) of the U.S. Department of State (Department) requests proposals from private U.S. individuals, firms, associations and organizations (for-profit or non-profit) for the design, development, installation, operation (including managing sponsorship donations and sponsorship fulfillment), and final disposition of a U.S. Pavilion at the International Exposition Astana Expo 2017, whose theme is "Future Energy." The Department will issue a "letter of intent" to the selected proposer authorizing that entity to proceed with all fundraising necessary to complete the USA Pavilion project. Note that all prospective donors must be vetted with the Department for potential conflicts of interest. The Department is not authorized to provide federal funding for any aspect of the U.S. Pavilion at Astana Expo 2017. The successful proposer will be responsible for all costs associated with all aspects of the U.S. Pavilion as well as all support for the U.S. Commissioner General. The successful proposer will consult closely with and follow the direction of Department officials and the U.S. Commissioner General with respect to Pavilion content and programming. Proposals from non-U.S. citizens or non-U.S.-owned firms or organizations shall be deemed *ineligible for consideration.*

DATES: Submit proposals on or before October 26, 2016.

FOR FURTHER INFORMATION CONTACT: Office of Central Asian Affairs, SCA/CEN, U.S. Department of State, 2201 C Street NW., Washington, DC 20520; or email *AstanaExpo2017@state.gov* for assistance.

SUPPLEMENTARY INFORMATION:

I. Description of Project Authority

Overall authority for Department support for U.S. participation in international expositions is contained in Section 102(a)(3) of the Mutual Educational and Cultural Exchange Act of 1961, as amended (*22 U.S.C. 2452*(a)(3)), also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." Pursuant to this authority, on a one-time basis, the Secretary of State has delegated authority for this particular Expo to the Bureau of South and Central Asian Affairs (SCA), which will be responsible for coordinating U.S. participation in Astana Expo 2017. Consequently, SCA will represent the U.S. Government in dealings with the Astana EXPO–2017 (JSC).

Background

The Government of the Republic of Kazakhstan has invited the United States to participate in the Astana Expo 2017 and the U.S. Government has advised the Kazakhstani Government of its intention to participate with an official U.S. Pavilion, subject to identification of a viable private sector partner and successful fundraising efforts. Astana Expo 2017 will be held on specially constructed exhibition grounds provided free of charge by the Kazakhstani Government. The Expo opens on June 10, 2017, and closes on September 10, 2017.

Astana Expo 2017 is a small-scale international exposition recognized by the International Expositions Bureau (BIE). The BIE is an international treaty organization established to sanction and monitor international exhibitions of long duration (over three weeks) and significant scale.

Invitations to international expositions are extended from the host government to other governments. The United States is not a member of the BIE, and the U.S. Commissioner General—selected by the Department—will therefore not be a formal member of the Steering Committee of the College of Commissioners General for Astana Expo 2017. With a projected two million visitors and five million visits, Astana Expo 2017 offers an excellent opportunity to educate and inform foreign audiences about the United States and its scientific and technological innovations relating to the theme of the Astana Expo—future energy—as well as to promote broad U.S. commercial interests around the world. U.S. participation in Astana Expo 2017 would confirm the strength and importance of U.S.-Kazakhstan bilateral ties and promote mutual understanding between the people of Kazakhstan and the United States.

Content

The JSC Astana EXPO–2017, the organizing committee for the Astana Expo, explains the overall theme of the Expo, "Future Energy," as follows: "combating climate change and reducing CO2 emissions, promoting energy alternatives—renewable energy in particular—and driving energy efficiency programs; ensuring energy security; managing energy production, storage and use; and guaranteeing universal access to sustainable energy." The theme for the U.S. Pavilion should be directly linked to the overall theme of the Expo and should reflect elements of the White House's "all of the above" energy strategy (*https://www.whitehouse.gov/energy/securing-american-energy*). SCA welcomes proposals for a Pavilion to showcase American expertise and innovation in some or all of the following areas: Advancing energy efficiency, safe and responsible gas and oil production, developing clean fuels, renewable energy, and carbon capture and sequestration technologies. Other Pavilion themes related to the overall Expo theme may also be proposed. The design concept for the U.S. Pavilion should appeal to a general, non-expert audience; proposals should therefore include entertaining elements for all ages as well as academic/expository aspects.

U.S. Direction

The U.S. Pavilion at Astana Expo 2017 will be an official representation of the Government of the United States of America in Kazakhstan; the Department must therefore ensure that the U.S. Pavilion is nonpolitical and nonpartisan in nature, of the highest possible quality, and balanced and representative of the diversity of American political, social, and cultural life. The Pavilion must maintain the highest level of scholarly integrity and meet the highest standards of artistic achievement and academic excellence. It should also be entertaining and interactive.

The U.S. Pavilion will be used to promote U.S. commercial interests as well as to highlight outstanding U.S. scientific and technological achievements. The proposed design for the U.S. Pavilion should include functional space for three purposes: An exhibit area, an administrative area, and hospitality facilities. The Pavilion layout should also include provisions for sponsorship recognition. Firms or companies subcontracted for design and other content creation must be U.S.-owned.

Further information on Astana Expo 2017 can be found at the official Expo Web site: *https://expo2017astana.com/en/* and at the International Bureau of Exhibitions Web site: *http://www.bie-paris.org/site/en/expos/upcoming-expos/expo-astana-2017*. A participation guide with detailed information about the site, the pavilion, services, and cost estimates provided by JSC Astana EXPO–2017 is available at: *http://ipm2016.kz/userdata/uploads/u14/1456310721.pdf*.

Student Ambassadors

Proposals must include a plan for managing student "ambassadors" (guides) at the U.S. Pavilion. All student ambassadors must be U.S. citizens, from a diverse set of backgrounds and U.S. States, and be fluent in Russian or Kazakh. Experience has shown that it is highly advantageous to have a student ambassador program run in conjunction with a U.S.-based college or university.

Funding Limitations

Section 204 of *Public Law 106–113* (*22 U.S.C. 2452*b) limits the support the Department may provide for U.S. participation in international expositions registered by the Bureau of International Expositions (BIE). This includes Astana Expo 2017. This Request for Proposals is intended to help identify a private U.S. individual, firm, association, or organization interested in, and capable of, providing a complete Pavilion/exhibit at Astana Expo 2017 as a gift to the United States Government. The Department is not authorized to provide funding for the U.S. Pavilion at Astana Expo 2017.

Costs

The U.S. Pavilion will be situated in an approximate 1,100-square-meter module provided at no-cost by the JSC Astana EXPO–2017. A mezzanine floor may be installed within the 12.5-meter height of the module. It is estimated that a representative U.S. presence in that space will cost $6 (six) million.

Costs would include, but not be limited to:

- *Design and internal fit-out construction* of the Pavilion space; incorporation of appropriate internal and external crowd control features;
- *Design* of the Pavilion; development of the story line;
- *Managing sponsorship engagement* by defining Sponsor packages based on pledge factors, accepting sponsor pledges solicited by the Department, and managing sponsorship fulfillment;
- *Production* of exhibits, audio-visual materials, films, DVDs, videos, posters, and other promotional materials needed for the exhibit;
- *Managing all administrative, personnel, operations, and Pavilion costs,* including salaries, benefits, contracting and supplier costs, and consulting fees, as well as funding associated with student guides, escorts, and representational gifts;
- *Protocol team for the creation and staffing* of hospitality facilities devoted to hosting all dignitaries visiting the U.S. Pavilion;
- *Promotion and advertisement* of the U.S. Pavilion;
- *Media engagement* and planning of communication strategy of the U.S. Pavilion, including the development of a Web site;
- *Transport,* travel, insurance, postage, and shipping fees;
- *Security,* namely, development and implementation of a security program for the U.S. Pavilion in consultation with the Department and appropriate Kazakhstani authorities;
- *Cultural and informational programs* associated with the Pavilion, including, but not limited to, production of U.S. National Day activities as well as other cultural programs;
- *Funding* for all expenses associated with the U.S. Commissioner General; and
- *Tear-down,* including removal of exhibits and return of the module space in the condition required by the Expo Organizing Committee. Final disposition plan must be approved by SCA.

Operations

The successful proposer will be responsible for full operation of the U.S. Pavilion. This would include, but not be limited to, such areas as protocol, public affairs, sponsorship fulfillment, cultural programming, student guide services, communications, operations, security, cleaning, and maintenance. Office space must be adequate for the proposed number of staff. A proposed staffing plan should be provided in the response to this RFP.

Expo Guidelines

Interested parties may view the Participation Guide at: *http://ipm2016.kz/userdata/uploads/u14/1456310721.pdf.* They can also email *AstanaExpo2017@state.gov* with any questions.

II. Eligibility Information

II.1. Eligible Applicants

Applications may be submitted by individuals, firms, associations, and public and private organizations (non-profit or for-profit). Non-profit organizations must meet the provisions described in Internal Revenue Code section *26 U.S.C. 501*(c)(3). Non-profit organizations must have nonprofit status with the IRS at the time of application. If your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status. Failure to do so will cause your proposal to be declared technically ineligible.

III. Application and Submission Information

III.1. Contact Information To Request an Application Package

Please contact the Office of Central Asian Affairs, SCA/CEN, U.S. Department of State, 2201 C Street NW., Washington, DC 20520; or email *AstanaExpo2017@state.gov* for assistance. Please refer to Astana Expo 2017 when making your request.

III.2. Proposals

Proposals should be provided in a narrative of *no more than twenty (20) pages 8½″ x 11″ in size, no smaller than 12-point font, single-spaced,* plus a detailed budget, with necessary attachments and/or exhibits. The narrative and additional documents should outline in as much detail as possible the plans for providing a U.S. Pavilion at Astana Expo 2017. Proposals should address the following:

- Willingness to adhere to the General Regulations of Astana Expo 2017, as stipulated by the JSC Astana EXPO–2017, including restrictions and limitations related to construction;
- Track record of working with Pavilions and on the proposed theme;
- Experienced staff with language facility in Russian and/or Kazakh;
- Clear concept for the exhibit plan and storyline, including designs;
- Detailed budget showing breakdown of budget items required for each aspect of the project development and implementation;
- Experience in budget management including examples of reacting to unforeseen circumstances while still operating within budget constraints;
- Detailed organizational chart indicating all necessary positions and start dates, including but not limited to design, operations, financial management, communications, protocol, Sponsor recruitment and fulfillment, and student ambassadors;
- Timeline detailing each step in the design, outfitting, and breakdown of the U.S. Pavilion as well as the development of the U.S. Pavilion content; and
- Agreement to consult closely with and follow the direction of Department officials and the U.S. Commissioner General and a communication plan proposing how to do so.

Proposals should state clearly that all materials developed specifically for the project will be subject to prior review and approval by SCA. In addition, proposals should state that all contracts or sub-contracts contemplated to be awarded by the proposer to further the purposes of the U.S. Pavilion which are in excess of $50,000 will be reviewed and approved by SCA prior to their award.

III.3 Application Deadline and Methods of Submission

Application Deadline Date: October 26, 2016.

Reference: Astana Expo 2017 RFP.

Submitting Applications

Proposal submissions must be sent via a nationally recognized overnight delivery service (*i.e.,* DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, *etc.*) and be shipped no later than the above deadline. The delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received by the Bureau of South and Central Asian Affairs (SCA) more than seven calendar days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to SCA via the Internet. SCA will *not* notify you upon receipt of application. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered. Applications may not be submitted electronically.

The original and ten copies of the application should be sent to:

U.S. Department of State, Bureau of South and Central Asian Affairs, Ref.: Astana Expo 2017 RFP, SCA/CEN, 2201 C Street NW., Washington, DC 20520.

Applicants must also submit the "Executive Summary" and "Proposal Narrative" sections of the proposal in text (.txt) or word (.doc) format via email to *AstanaExpo2017@state.gov.*

IV. Application Review Information

IV.1. Review Process

The Bureau of South and Central Asian Affairs (SCA) will review all proposals for technical eligibility. Proposals will be deemed *ineligible* if they are not submitted by a U.S. citizen, U.S.-owned corporation, or U.S.-based organization, and do not fully adhere to the General Regulations of Astana Expo 2017 and the guidelines stated herein. Eligible proposals will be subject to compliance with Federal guidelines.

SCA will review all eligible proposals, as will relevant elements of the U.S. Mission in the Republic of Kazakhstan and a panel of senior U.S. Government employees. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements and private sector experts. The final decision on which proposal is most advantageous to the U.S. Government will be at the sole discretion of the Department's Assistant Secretary for South and Central Asian Affairs.

IV.2. Review Criteria

Technically, eligible proposals will be reviewed according to the criteria stated below. These criteria are *not* rank-ordered.

1. *Program planning to achieve Pavilion objectives:* Proposals should clearly demonstrate how the planned Pavilion will: Educate and inform foreign audiences about the United States and its scientific, technological, and commercial innovations relating to energy; and promote broad U.S. commercial interests around the world, including in the region, and specifically address the theme and General Regulations of the Expo. The proposal should also include a clearly articulated media engagement plan and public communications strategy for the Pavilion. Pavilion objectives should be reasonable, feasible, and flexible. The proposal should contain a detailed timeline and budget that demonstrate substantive undertakings and logistical capacity. The proposal should also include a communications plan for consulting with the Department.

2. *Institutional Capacity/Record/Ability:* Proposals should describe personnel and institutional resources, which should be defined and adequate to achieve the Pavilion's goals. Proposals should demonstrate an institutional record of successful Pavilion activities, including responsible fiscal management and governance practices, and full compliance with all applicable BIE Expo requirements.

3. *Multiplier effect/impact:* Proposals should clearly state how Pavilion content and related activities will strengthen long-term mutual understanding between the United States and Kazakhstan, the other countries of Central Asia, and people around the world more broadly.

4. *Support of Diversity:* Proposals should demonstrate involvement of participants from traditionally underrepresented groups including, but not limited to, women, racial and ethnic minorities, and people with disabilities.

5. *Monitoring and Project Evaluation Plan:* Proposals should include a plan to measure the impact of the proposed U.S. Pavilion, cultural programs, and information programs.

6. *Sponsorship Management:* Proposals should include a plan to manage sponsor engagement and sponsorship fulfillment.

7. *Cost-effectiveness:* Proposals must include a proposed action plan and timeline for all aspects of the project with associated, detailed budget estimates based on a $6 (six) million budget. Note that prospective donors will be vetted with the State Department for potential conflict of interest.

V. Selection Administration Information

Selection Notices

The Department will issue a "letter of intent" to the selected proposer authorizing that entity to proceed with fundraising to complete the USA Pavilion project. The letter will include guidelines on fundraising to be followed by the selected proposer and will establish a deadline for completion of all fundraising activities. The successful proposer must be able to demonstrate to the Department that it can raise the funds necessary to complete the project. The successful proposer is expected to sign a Memorandum of Understanding with the Department. Only after the successful proposer is able to demonstrate that all funding required for this project will be in hand will the Department of State sign a Memorandum of Understanding (MOU) with that proposer, sign a Participation Contract with the Expo organizing body, and appoint a Commissioner General.

Unsuccessful proposers will receive notification of the results of the application review from the Bureau of South and Central Asian Affairs (SCA).

Reporting Requirements

The successful proposer must provide SCA with a hard copy original plus two copies of the following reports:

1. Program and financial reports every 45 (forty-five) calendar days after the signature of the Memorandum of Understanding.

2. Final program and financial reports no more than 90 (ninety) calendar days after the scheduled September 10, 2017, closing of Astana Expo 2017.

VI. Agency Contacts

For questions about this announcement, contact: U.S. Department of State, Bureau of South and Central Asian Affairs, Ref.: Astana Expo 2017 RFP, SCA/CEN, 2201 C Street NW., Washington, DC 20520; *AstanaExpo2017@state.gov.*

Correspondence with SCA concerning this Request for Proposals (RFP) should reference Astana Expo 2017.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFP deadline for submission of proposals has passed, SCA staff may not discuss this competition with applicants until the proposal review process has been completed.

VII. Other Information

Notice

The terms and conditions published in this Request for Proposals are binding and may only be modified in writing. Explanatory information provided by the Bureau of South and Central Asian Affairs (SCA) that contradicts published language will not be binding. Issuance of this RFP does not constitute an intention to agree to work with any private sector entity at Astana Expo

2017. SCA reserves the right to select the U.S. private sector partner for Astana Expo 2017 and to approve all elements of the Pavilion and project. Decisions made based on indications of interest submitted in response to this RFP will be made in the sole discretion of SCA and will be final.

Dated: September 16, 2016.

Nisha Biswal,

Assistant Secretary, Bureau of South and Central Asian Affairs, Department of State.

[FR Doc. 2016–23115 Filed 9–23–16; 8:45 am]

BILLING CODE 4710–46–P

DEPARTMENT OF STATE

[Public Notice: 9736]

Culturally Significant Objects Imported for Exhibition Determinations: "Time and Cosmos in Greco-Roman Antiquity" Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition "Time and Cosmos in Greco-Roman Antiquity," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Institute for the Study of the Ancient World, New York, New York, from on or about October 19, 2016, until on or about April 23, 2017, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: September 21, 2016.

Mark Taplin,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2016–23279 Filed 9–23–16; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 9734]

Executive Order 13224 Designation of Jund al-Aqsa, aka JAA, aka Jund Al-Aqsa, aka The Soldiers of Aqsa, aka Soldiers of al-Aqsa, aka Sarayat al-Quds as a Specially Designated Global Terrorist

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the entity known as Jund al-Aqsa, also known as JAA, also known as Jund Al-Aqsa, also known as The Soldiers of Aqsa, also known as Soldiers of al-Aqsa, also known as Sarayat al-Quds, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: September 16, 2016.

John F. Kerry,

Secretary of State.

[FR Doc. 2016–23177 Filed 9–23–16; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF STATE

[Public Notice: 9735]

Culturally Significant Objects Imported for Exhibition Determinations: "Martin Luther: Art and the Reformation" Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition "Martin Luther: Art and the Reformation," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Minneapolis Institute of Art, Minneapolis, Minnesota, from on or about October 30, 2016, until on or about January 15, 2017, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: September 21, 2016.

Mark Taplin,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2016–23278 Filed 9–23–16; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 9733]

Review of the Designation as a Foreign Terrorist Organization of al-Aqsa Martyrs' Brigade (and Other Aliases)

Based upon a review of the Administrative Record assembled pursuant to Section 219(a)(4)(C) of the Immigration and Nationality Act, as amended (8 U.S.C. 1189(a)(4)(C)) ("INA"), and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that the circumstances that were the basis for the designation of the aforementioned organization as a Foreign Terrorist Organization have not changed in such a manner as to warrant revocation of the designation and that the national security of the United States does not warrant a revocation of the designation.

Therefore, I hereby determine that the designation of the aforementioned organization as a Foreign Terrorist Organization, pursuant to Section 219 of the INA (8 U.S.C. 1189), shall be maintained.

This determination shall be published in the **Federal Register**.

Dated: September 16, 2016.

John F. Kerry,

Secretary of State.

[FR Doc. 2016–23180 Filed 9–23–16; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: ATC Authorizations in Controlled Airspace Under Part 107

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a previously approved information collection. The FAA has established the ATC Authorization in Controlled Airspace under Part 107 portal to allow a remote pilot in command to request FAA authorization for a small unmanned aircraft to operate in Class B, C, D, and the lateral boundaries of the surface area of Class E airspace designated for an airport.

DATES: Written comments should be submitted by November 25, 2016.

ADDRESSES: Send comments to the FAA at the following address: Ronda Thompson, Room 441, Federal Aviation Administration, ASP–110, 950 L'Enfant Plaza SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0768.

Title: ATC Authorizations in Controlled Airspace under Part 107.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The Operation and Certification of Small Unmanned Aircraft Systems final rule establishes established the ATC Authorization in Controlled Airspace under Part 107 portal to allow a remote pilot in command to request FAA authorization for a small unmanned aircraft to operate in Class B, C, D, and the lateral boundaries of the surface area of Class E airspace designated for an airport. The remote pilot in command will be required to submit information electronically to the FAA regarding the operation to be conducted. Information will include contact information for the remote pilot in command, the date and time of the operation, as well as its anticipated duration, and the airspace for which the request is submitted. If the remote pilot in command wishes to conduct the same operation on a number of dates/times, the request will permit multiple dates/times to be listed to reduce the number of submissions required.

Respondents: Approximately 10.

Frequency: On occasion.

Estimated Average Burden per Response: .5 hour.

Estimated Total Annual Burden: 5 hours.

Issued in Washington, DC, on September 14, 2016.

Ronda Thompson,

FAA Information Collection Clearance Officer, Performance, Policy, and Records Management Branch, ASP–110.

[FR Doc. 2016–23118 Filed 9–23–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Mitsubishi MU–2B Series Airplane Special Training, Experience, and Operating Procedures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a previously approved information collection. The collection of information is necessary to document participation, completion, and compliance with the pilot training program for the MU–2B under the newly published subpart N of part 91 which will replace SFAR No. 108.

DATES: Written comments should be submitted by November 25, 2016.

ADDRESSES: Send comments to the FAA at the following address: Ronda Thompson, Room 441, Federal Aviation Administration, ASP–110, 950 L'Enfant Plaza SW., Washington, DC 20024.

PUBLIC COMMENTS INVITED: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0725.

Title: Mitsubishi MU–2B Series Airplane Special Training, Experience, and Operating Procedures.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: In response to the increasing number of accidents and incidents involving the Mitsubishi MU–2B series airplane, the Federal Aviation Administration (FAA) began a safety evaluation of the MU–2B in July of 2005. As a result of this safety evaluation, the FAA issued Special Federal Aviation Regulation No. 108—Mitsubishi MU–2B Series Special Training, Experience, and Operating Requirements on February 6, 2008. This Special Federal Aviation Regulation (SFAR) established a standardized pilot training program. The collection of information is necessary to document participation, completion, and compliance with the pilot training program for the MU–2B under the newly published subpart N of part 91 which will replace SFAR No. 108.

Respondents: Approximately 600 pilots.

Frequency: On occasion.

Estimated Average Burden per Response: 10 minutes.

Estimated Total Annual Burden: 100 hours.

Issued in Washington, DC, on September 21, 2016.

Ronda Thompson,

FAA Information Collection Clearance Officer, Performance, Policy, and Records Management Branch, ASP–110.

[FR Doc. 2016–23117 Filed 9–23–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control ("OFAC") is removing the name of 1 entity whose property and interests in property have been blocked pursuant to Executive Order 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism," from the list of Specially Designated Nationals and Blocked Persons ("SDN List").

DATES: OFAC's actions described in this notice are effective on September 16, 2016.

FOR FURTHER INFORMATION CONTACT: Associate Director for Global Targeting, tel.: 202/622–2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (*www.treas.gov/ofac*).

Notice of OFAC Actions

The following entity is removed from the SDN List, effective as of September 16, 2016.

Entity

1. AL-HARAMAIN: UNITED STATES BRANCH (a.k.a. AL HARAMAIN FOUNDATION, INC.; a.k.a. ALHARAMAIN; a.k.a. ALHARAMAIN FOUNDATION; a.k.a. AL-HARAMAIN FOUNDATION; a.k.a. ALHARAMAIN HUMANITARIAN FOUNDATION; a.k.a. AL-HARAMAIN HUMANITARIAN FOUNDATION; a.k.a. ALHARAMAIN ISLAMIC FOUNDATION; a.k.a. AL-HARAMAIN ISLAMIC FOUNDATION; a.k.a. ALHARAMAYN; a.k.a. AL-HARAMAYN; a.k.a. ALHARAMAYN FOUNDATION; a.k.a. AL-HARAMAYN FOUNDATION; a.k.a. ALHARAMAYN HUMANITARIAN FOUNDATION; a.k.a. AL-HARAMAYN HUMANITARIAN FOUNDATION; a.k.a. ALHARAMAYN ISLAMIC FOUNDATION; a.k.a. AL-HARAMAYN ISLAMIC FOUNDATION; a.k.a. ALHARAMEIN; a.k.a. AL-HARAMEIN; a.k.a. ALHARAMEIN FOUNDATION; a.k.a. AL-HARAMEIN FOUNDATION; a.k.a. ALHARAMEIN HUMANITARIAN FOUNDATION; a.k.a. AL-HARAMEIN HUMANITARIAN FOUNDATION; a.k.a. ALHARAMEIN ISLAMIC FOUNDATION; a.k.a. AL-HARAMEIN ISLAMIC FOUNDATION; a.k.a. MU'ASSASAT AL-HARAMAIN AL-KHAYRIYYA; a.k.a. MU'ASSASAT AL-HARAMAYN AL-KHAYRIYYA; a.k.a. MU'ASSASAT AL-HARAMEIN AL-KHAYRIYYA; a.k.a. VAZIR; a.k.a. VEZIR), 3800 Highway 99 S., Ashland, OR 97520–8718, United States; 1257 Siskiyou BLVD, Ashland, OR 97520, United States; 2151 E. Division St., Springfield, MO 65803, United States [SDGT].

Dated: September 16, 2016.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2016–23068 Filed 9–23–16; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (OFAC) is removing the names of 3 individuals, whose property and interests in property were blocked pursuant to Executive Order 13224, from the list of Specially Designated Nationals and Blocked Persons (SDN List).

DATES: OFAC's actions described in this notice were effective June 30, 2016.

FOR FURTHER INFORMATION CONTACT: Associate Director for Global Targeting, tel.: 202–622–2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490, Assistant Director for Licensing, tel.: 202–622–2480, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202–622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (*www.treas.gov/ofac*).

Notice of OFAC Actions

On June 30, 2016, OFAC removed the following 3 individuals from the SDN List.

Individuals

1. JIM'ALE, Ahmed Nur Ali (a.k.a. JIMALE, Ahmad Ali; a.k.a. JIM'ALE, Ahmad Nur Ali; a.k.a. JIMALE, Ahmed Ali; a.k.a. JIMALE, Shaykh Ahmed Nur; a.k.a. JIMALE, Sheikh Ahmed; a.k.a. JUMALE, Ahmed Ali; a.k.a. JUMALE, Ahmed Nur; a.k.a. JUMALI, Ahmed Ali), P.O. Box 3312, Dubai, United Arab Emirates; Mogadishu, Somalia; Djibouti, Djibouti; DOB 20 May 1954; POB Eilbur, Somalia; nationality Somalia; citizen Somalia; alt. citizen Djibouti; Passport A0181988 (Somalia) issued 01 Oct 2001 expires 23 Jan 2011; Additional Djiboutian passport issued in 2010. (individual) [SDGT].
2. Daki, Mohamed, Via Melato 11, Reggio Emilia, Italy; DOB 29 Mar 1965; POB Casablanca, Morocco; nationality Morocco; arrested 4 Apr 2003 (individual) [SDGT].
3. HIMMAT, Ali Ghaleb, Via Posero 2, Compione d'Italia CH–6911,

Switzerland; DOB 16 Jun 1938; POB Damascus, Syria; citizen Switzerland; alt. citizen Tunisia (individual) [SDGT].

Dated: June 30, 2016.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2016–23070 Filed 9–23–16; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (OFAC) is publishing the names of 6 individuals whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism."

DATES: OFAC's actions described in this notice were effective on May 19, 2016.

FOR FURTHER INFORMATION CONTACT: Associate Director for Global Targeting, tel.: 202/622–2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (*www.treas.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs is also available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Notice of OFAC Actions

On May 19, 2016, OFAC blocked the property and interests in property of the following 6 individuals pursuant to E.O. 13224, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism":

Individuals

1. AL-'ANIZI, 'Abdallah Hadi 'Abd al-Rahman Fayhan Sharban (a.k.a. AL-'ANIZI, 'Abdallah Hadi 'Abd-al-Rahman Fihan Sharyan; a.k.a. AL-'ANIZI, 'Abdallah Hadi 'Abd-al-Rahman Fihan Shiryan; a.k.a. AL-'ANIZI, 'Abdullah Hadi 'Abd al-Rahman Fayzan Sharifan; a.k.a. AL-'ANZI, 'Abdallah Hadi 'Abd al-Rahman Fayhan Sharban; a.k.a. AL-ANZI, 'Abdallah Hadi 'Abd al-Rahman Fayhan Sharyan; a.k.a. AL-ANZI, 'Abdallah Hadi 'Abd al-Rahman Fayzan Sharifan al-Anzi; a.k.a. "AL-KUWAITI, Zubayr"; a.k.a. "AL-ZUBAYR, Abu"), Hawali, Hawali Governorate, Kuwait; DOB 02 Aug 1984; POB Kuwait; citizen Kuwait; Passport 107609169 (Kuwait); Driver's License No. 3284670 expires 21 Aug 2017; Identification Number 284080201511 (individual) [SDGT] (Linked To: AL QA'IDA; Linked To: AL-NUSRAH FRONT).

2. AL-ZAIDI, Ghalib Abdullah (a.k.a. AL-ZAYDI, Ghalib 'Abdallah 'Ali), Yemen; DOB 1975; alt. DOB 1970; POB Raqqah Region, Marib Governorate, Yemen (individual) [SDGT] (Linked To: AL-QA'IDA IN THE ARABIAN PENINSULA).

3. ‘AMMAR, Salmi Salama Salim Sulayman (a.k.a. "‘ASRA, Abu"; a.k.a. "YUSRI"); DOB 01 Jan 1979 to 31 Dec 1979 (individual) [SDGT] (Linked To: ISIL SINAI PROVINCE).

4. AL-MUTAYRI, Abd al-Muhsin Zabin Mutib Naif (a.k.a. AL-MUTAIRI, 'Abd al-Muhsin; a.k.a. AL-MUTAIRI, Abdulmohsen Zeben Mutaab; a.k.a. AL-MUTAYRI, 'Abd al-Muhsin Zaban; a.k.a. AL-MUTAYRI, 'Abd al-Muhsin Zabin Mut'ab; a.k.a. AL-MUTAYRI, 'Abd al-Muhsin Zabin Naif; a.k.a. AL-MUTAYRI, 'Abd al-Muhsin Zibin Mut'ib Nayif; a.k.a. AL-MUTAYRI, 'Abd al-Muhsin Zibn Muta'ab; a.k.a. AL-MUTAYRI, 'Abd al-Muhsin Zubin; a.k.a. AL-MUTAYRI, 'Abd al-Mushin Zabin Mutib Naif; a.k.a. AL-MUTAYRI, 'Abd al-Mushin Zabn; a.k.a. AL-MUTAYRI, Dr. 'Abd al-Muhsin Zabn Mut'ib; a.k.a. AL-MUTAYYIRI, 'Abd al-Muhsin Zabin Mutab Nayif; a.k.a. AL-MUTAYYIRI, 'Abd al-Muhsin Zabn; a.k.a. AL-MUTAYYIRI, 'Abd al-Muhsin Zubyn; a.k.a. AL-MUTAYYRI, 'Abd al-Muhsin; a.k.a. "AL-ZIBIN, Muhsin"; a.k.a. "NAYIF, 'Abd al-Muhsin Zayn Mun'ib"), Kuwait; DOB 01 Jul 1973; POB Kuwait; nationality Kuwait (individual) [SDGT] (Linked To: AL-NUSRAH FRONT).

5. AL-QAYSI, Nayif Salih Salim (a.k.a. AL QAISI, Naif Saleh Salem; a.k.a. AL QAYSI, Nayif Salih Salim; a.k.a. AL-GHAYSI, Nayif), Al-Bayda Governorate, Yemen; Sana, Sana Governorate, Yemen; DOB 01 Jan 1983; POB Albaidah, Yemen; citizen Yemen; Passport 04796738 (Yemen) (individual) [SDGT] (Linked To: AL–QA'IDA IN THE ARABIAN PENINSULA).

6. MAHAMED, Mostafa (a.k.a. ABDEL HAMID, Mostafa Mohamed; a.k.a. FARAG, Mostafa; a.k.a. FARAG, Mostafa Mohamed; a.k.a. "AL AUSTRALI, Abu Sulayman"; a.k.a. "AL MUHAJIR, Abu Sulayman"; a.k.a. "AL USTRALI, Abu Sulayman"; a.k.a. "AL-MASRI, Abu Sulayman"); DOB 14 Feb 1984; POB Port Said, Egypt; nationality Australia; alt. nationality Egypt; Passport M1898709 (Australia) expires 11 Oct 2012; Driver's License No. 13652517 (Australia) expires 19 Apr 2014 (individual) [SDGT] (Linked To: AL-NUSRAH FRONT).

Dated: May 19, 2016.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2016–23069 Filed 9–23–16; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1120–ND

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the genera public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1120–ND, Return for Nuclear Decommissioning Funds and Certain Related Persons.

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *LaNita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Return for Nuclear Decommissioning Funds and Certain Related Persons.

OMB Number: 1545–0954.

Form Number: 1120–ND.

Abstract: A nuclear utility files Form 1120–ND to report the income and taxes of a fund set up by the public utility to provide cash to decommission the nuclear power plant. The IRS uses Form 1120–ND to determine if the fund income taxes are correctly computed and if an entity related to the fund or the nuclear utility must pay taxes on self-dealing, as required by Internal Revenue Code section 4951.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time per Respondents: 32 hours, 35 minutes.

Estimated Total Annual Burden Hours: 3,259.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 13, 2016.

Tuawana Pinkston,

Supervisory Tax Analyst.

[FR Doc. 2016–23175 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2006–107

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2006–107, Diversification Requirements for Qualified Defined Contribution Plans Holding Publicly Traded Employer Securities.

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Allan Hopkins at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Diversification Requirements for Qualified Defined Contribution Plans Holding Publicly Traded Employer Securities.

OMB Number: 1545–2049.

Revenue Procedure Number: Notice 2006–107.

Abstract: This notice provides transitional guidance on § 401(a)(35) of the Internal Revenue Code, added by section 901 of the Pension Protection Act of 2006, Public Law 109–280, 120 Stat. 780 (PPA '06), which provides diversification rights with respect to publicly traded employer securities held by a defined contribution plan. This notice also states that Treasury and the Service expect to issue regulations under § 401(a)(35) that incorporate the transitional relief in this notice and requests comments on the transitional guidance in this notice and on the topics that need to be addressed in the regulations.

Current Actions: There are no changes being made to the Notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business and other for-profit.

Estimated Number of Respondents: 10,300.

Estimated Time per Respondent: 45 minutes.

Estimated Total Annual Burden Hours: 7,725.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 18, 2016.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2016–23126 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning definition of a controlled foreign corporation, foreign base company income and foreign personal holding company income of a controlled foreign corporation.

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed Allan Hopkins, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Definition of a Controlled Foreign Corporation, Foreign Base Company Income and Foreign Personal Holding Company Income of a Controlled Foreign Corporation.

OMB Number: 1545–1068. Regulation Project Number: INTL–362–88.

Abstract: A U.S. shareholder of a controlled foreign corporation is subject to current U.S. taxation on the subpart F income of the foreign corporation, which consists of several categories of income. The election and recordkeeping requirements in the regulation are necessary to exclude certain high-taxed or active business income from subpart F income or to include certain income in the appropriate category of subpart F income. The record-keeping and election procedures allow the U.S. shareholders and the IRS to know the amount of the controlled foreign corporation's subpart F income.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents/Recordkeepers: 50,500.

Estimated Time per Respondent/Recordkeeper: 1 hour.

Estimated Total Annual Reporting/Recordkeeping Hours: 50,417.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 19, 2016.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2016–23132 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 6497

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 6497, Information Return of Nontaxable Energy Grants or Subsidized Energy Financing.

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita VanDyke at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Information Return of Nontaxable Energy Grants or Subsidized Energy Financing.

OMB Number: 1545–0232.

Form Number: Form 6497.

Abstract: Section 605D of the Internal Code requires an information return to be made by any person who administers a Federal, state, or local program providing nontaxable grants or subsidized energy financing. Form 6497 is used for making the information return. The IRS uses the information from the form to ensure that recipients have not claimed tax credits or other benefits with respect to the grants or subsidized financing.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and federal, state, local or tribal governments.

Estimated Number of Respondents: 250.

Estimated Time per Respondent: 3 hours, 14 minutes.

Estimated Total Annual Burden Hours: 810.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 13, 2016.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2016–23169 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2012–25

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2012–25, Average Area Purchase Price Safe Harbors and Nationwide Purchase Prices under section 143.

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to LaNita Van Dyke at Internal Revenue Service, Room 6525, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Average Area Purchase Price Safe Harbors and Nationwide Purchase Prices under section 143.

OMB Number: 1545–1877.

Revenue Procedure Number: Revenue Procedure 2012–25.

Abstract: Revenue Procedure 2012–25 provides issuers of qualified mortgage bonds, as defined in section 143(a) of the Internal Revenue Code, and issuers of mortgage credit certificates, as defined in section 25(c), with (1) nationwide average purchase prices for residences located in the United States, and (2) average area purchase price safe harbors for residences located in statistical areas in each state, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, the Virgin Islands, and Guam.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: State, local and tribal governments.

Estimated Number of recordkeepers: 60.

Estimated Time per recordkeeper: 15 minutes.

Estimated Total Annual Burden Hours: 15.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 13, 2016.

Tuawana Pinkston,

OMB Reports Clearance Officer.

[FR Doc. 2016–23179 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 98–19

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 98–19, Exceptions to the notice and reporting requirements of section 6033(e)(1) and the tax imposed by section 6033(e)(2).

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Allan Hopkins at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Exceptions to the notice and reporting requirements of section 6033(e)(1) and the tax imposed by section 6033(e)(2).

OMB Number: 1545–1589.

Revenue Procedure Number: Revenue Procedure 98–19.

Abstract: Revenue Procedure 98–19 provides guidance to organizations exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 on certain exceptions from the reporting and notice requirements of section 6033(e)(1) and the tax imposed by section 6033(e)(2).

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, not-for-profit institutions and farms.

Estimated Number of Organizations: 15,000.

Estimated Average Time per Organizations: 10 hours.

Estimated Total Annual Recordkeeping Hours: 150,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 19, 2016.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2016–23130 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2006–109.

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2006–109, Interim Guidance Regarding Supporting Organizations and Donor Advised Funds.

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Sara Covington at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Interim Guidance Regarding Supporting Organizations and Donor Advised Funds.

OMB Number: 1545–2050.

Notice Number: Notice 2006–109.

Abstract: This notice provides interim guidance regarding application of new or revised requirements under sections 1231 and 1241–1244 of the Pension Protection Act of 2006. It also provides interim relief from application of new excise taxes on private foundation grants to supporting organizations and on sponsoring organizations of donor advised funds.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 65,000.

Estimated Time per Respondent: Varies 7 hours, 53 minutes to 9 hours, 48 minutes.

Estimated Total Annual Burden Hours: 612,294.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 15, 2016.

Tuawana Pinkston,

IRS Supervisory Tax Analyst.

[FR Doc. 2016–23147 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8612

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8612, Return of Excise Tax on Undistributed Income of Real Estate Investment Trusts.

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Sara Covington, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Return of Excise Tax on Undistributed Income of Real Estate Investment Trusts.

OMB Number: 1545–1013.

Form Number: Form 8612.

Abstract: Form 8612 is used by real estate investment trusts to compute and pay the excise tax on undistributed income imposed under section 4981 of the Internal Revenue Code. The IRS uses the information to verify that the correct amount of tax has been reported.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 20.

Estimated Time per Respondent: 9 hours, 48 minutes.

Estimated Total Annual Burden Hours: 196.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 8, 2016.

Tuawana Pinkston,

IRS Supervisory Tax Analyst.

[FR Doc. 2016–23152 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–107186–00]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–107186–00 (TD 9114), Electronic Payee Statements (§§ 1.6041–2, 1.6050S–2, 1.6050S–4, and 31.6051–1).

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Sara Covington at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Electronic Payee Statements.

OMB Number: 1545–1729.

Regulation Project Number: REG–107186–00 (TD 9114).

Abstract: In general, under these regulations, a person required to furnish a statement on Form W–2 under Code sections 6041(d) or 6051, or Forms 1098–T or 1098–E under Code section 6050S, may furnish these statements electronically if the recipient consents to receive them electronically, and if the person furnishing the statement (1) makes certain disclosures to the recipient, (2) annually notifies the recipient that the statement is available on a Web site, and (3) provides access to the statement on that Web site for a prescribed period of time.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individual or households.

Estimated Number of Respondents/Recordkeepers: 28,449,495.

Estimated Average Annual Burden per Respondents/Recordkeepers: 6 minutes.

Estimated Total Annual Reporting/Recording Hours: 2,844,950.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 20, 2016.

Tuawana Pinkston,

IRS Supervisory Tax Analyst.

[FR Doc. 2016–23164 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Certain Retirement Plans Under Sections 401(k) and 401(m) and Guidance on Cash or Deferred Arrangements

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning guidance on cash or deferred arrangements.

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Sara Covington at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: REG–108639–99 (T.D.9169 Final) Retirement Plans; Cash or Deferred Arrangements Under Section 401(k) and Matching Contributions or Employee Contributions Under Section 401(m); Notice 2000–3.

OMB Number: 1545–1669.

Regulation/Notice Number: REG–108639–99 (T.D.9169) and Notice 2000–3.

Abstract: The final regulations provide guidance for certain retirement plans containing cash or deferred arrangements under section 401(k) and providing matching contributions or employee contributions under section 401(m). The IRS needs this information to insure compliance with sections 401(k) and 401(m).

Current Actions: There are no changes being made to this regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit, Not-for-profit institutions and State, Local or Tribal Government.

Estimated Number of Respondents: 22,500.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 26,500.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 20, 2016.

Tuawana Pinkston,

IRS Supervisory Tax Analyst.

[FR Doc. 2016–23156 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8868

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form 8868, Application for Extension of Time To File an Exempt Organization Return.

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Extension of Time To File an Exempt Organization Return.

OMB Number: 1545–1709.

Form Number: 8868.

Abstract: Sections 6081 and 1.6081 of the Internal Revenue Code and regulations permit the Internal Revenue Service to grant a reasonable extension of time to file a return. Form 8868 provides the necessary information for a taxpayer to apply for an extension to file a fiduciary or certain exempt organization return.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a previously approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 248,932.

Estimated Time per Respondent: 10 hrs., 24 mins.

Estimated Total Annual Burden Hours: 1,291,498.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 19, 2016.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2016–23129 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning the Tip Reporting Alternative Commitment Agreement (TRAC) for Use in the Food and Beverage Industry; the Tip Rate Determination Agreement (TRDA) for industries other than the food and beverage industry and the gaming industry.

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection tools should be directed to LaNita Van Dyke, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *LaNita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION: Currently, the IRS is seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

Title: Tip Reporting Alternative Commitment Agreement (TRAC) for Use in the Food and Beverage Industry.

OMB Number: 1545–1549.

Form Number: N/A.

Abstract: Announcement 2000–22, 2000–19 I.R.B. 987, and Announcement 2001–1, #2001–2 I.R.B. p. 277, contain Information required by the Internal Revenue Service in its compliance efforts to assist employers and their employees in understanding and complying with Internal Revenue Code section 6053(a), which requires employees to report all their tips monthly to their employers.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 41,800.

Estimated Time per Respondent: 7 hrs., 6 min.

Estimated Total Annual Burden Hours: 296,916.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 13, 2016.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2016–23187 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning, Changes in Accounting Periods.

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to LaNita Van Dyke at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Changes in Accounting Periods.

OMB Number: 1545–1748.

Regulation Project Number: TD 8996.

Abstract: Section 1.441–2(b)(1) requires certain taxpayers to file statements on their federal income tax returns to notify the Commissioner of the taxpayers' election to adopt a 52–53-week taxable year. Section 1.442–1(b)(4) provides that certain taxpayers must establish books and records that clearly reflect income for the short period involved when changing their taxable year to a fiscal taxable year. Section 1.442–1(d) requires a newly married husband or wife to file a statement with their short period return when changing to the other spouse's taxable year.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection. Affected Public: Business or other for-profit organizations, and Individuals or households.

Estimated Number of Respondents: 1,000.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 13, 2016.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2016–23168 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2011–34, Rules for Certain Rental Real Estate Activities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure RP–125212–09, Rules for Certain Rental Real Estate Activities.

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Revenue Procedure 2011–34 Rules for Certain Rental Real Estate Activities.

OMB Number: 1545–2194.

Abstract: This Revenue Procedure Grants Relief Under Section 1.469–9(g) for Certain Taxpayers to Make Late Elections to Treat All Interests in Rental Real Estate as a Single Rental Real Estate Activity.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 2,000.

Estimated Total Annual Burden Hours: 1,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 16, 2016.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2016–23125 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning proceeds of bonds used for reimbursement (§ 1.150–2(e)).

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Sara Covington, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Proceeds of Bonds Used for Reimbursement.

OMB Number: 1545–1226. Regulation Project Number: T.D. 8394.

Abstract: This regulation clarifies when the allocation of bond proceeds to reimburse expenditures previously made by an issuer of the bond is treated as an expenditure of the bond proceeds. The issuer must express a reasonable official intent, on or prior to the date of payment, to reimburse the expenditure in order to assure that the reimbursement is not a device to evade requirements imposed by the Internal Revenue Code with respect to tax exempt bonds.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: State, local or tribal governments, and not-for-profit institutions.

Estimated Number of Respondents: 2,500.

Estimated Time per Respondent: 2 hours, 24 minutes.

Estimated Total Annual Burden Hours: 6,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 12, 2016.

Tuawana Pinkston,

IRS Supervisory Tax Analyst.

[FR Doc. 2016–23150 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning qualified zone academy bonds: Obligations of states and political subdivisions.

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Sara Covington, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington DC 20224, or through the internet, at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Qualified Zone Academy Bonds: Obligations of States and Political Subdivisions.

OMB Number: 1545–1908.

Regulation Number: Regulation 121475–03 (T.D. 9495).

Abstract: The agency needs the information to ensure compliance with the requirement under the regulation that the taxpayer rebates the earnings on the defeasance escrow to the United States. The agency will use the notice to ensure that the respondent pays rebate when rebate becomes due. The respondent are state and local governments that issue qualified zone academy bonds under § 1397E of the IRC.

Current Actions: There are no changes being made to the regulation at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: State, Local or Tribal Government.

Estimated Number of Respondents: 6.

Estimated Average Time per Respondent: 30 minutes.

Estimated Total Annual Reporting Hours: 3.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 20, 2016.

Tuawana Pinkston,

IRS Supervisory Tax Analyst.

[FR Doc. 2016–23166 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 6197

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 6197, Gas Guzzler Tax.

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Sara Covington at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Gas Guzzler Tax.

OMB Number: 1545–0242.

Form Number: 6197.

Abstract: Internal Revenue Code section 4064 imposes a gas guzzler tax on the sale, use, or first lease by a manufacturer or first lease by a manufacturer or importer of automobiles whose fuel economy does not meet certain standards for fuel economy. The tax is computed on Form 6197. The IRS uses the information to verify computation of tax and compliance with the law.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals or households.

Estimated Number of Respondents: 605.

Estimated Time per Respondent: 7 hours, 42 minutes.

Estimated Total Annual Burden Hours: 4,659.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 20, 2016.

Tuawana Pinkston,

IRS Supervisory Tax Analyst.

[FR Doc. 2016–23137 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8734

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8734, Support Schedule for Advance Ruling Period.

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Sara Covington, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Sara.L.Covington@irs.gov.*

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SUPPLEMENTARY INFORMATION:

Title: Support Schedule for Advance Ruling Period.

OMB Number: 1545–1836.

Form Number: 8734.

Abstract: Form 8734 is used by charities to furnish financial information that Exempt Organization Determinations of IRS can use to classify a charity as a public charity.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 2,900.

Estimated Time per Respondent: 33 hours, 35 minutes.

Estimated Total Annual Reporting Burden hours: 97,411.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 14, 2016.

Tuawana Pinkston,

IRS Supervisory Tax Analyst.

[FR Doc. 2016–23192 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8873

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8873, Extraterritorial Income Exclusion.

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke, at Internal Revenue Service, Room 6526 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Extraterritorial Income Exclusion.

OMB Number: 1545–1722.

Form Number: 8873.

Abstract: The FSC and Extraterritorial Income Exclusion Act of 2000 added section 114 to the Internal Revenue Code. Section 114 provides for an exclusion from gross income for certain transactions occurring after September 30, 2000, with respect to foreign trading gross receipts. Form 8873 is used to compute the amount of extraterritorial income excluded from gross income for the tax year.

Current Actions: There are no changes being made to the form at this time. This submission is for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 750,000.

Estimated Time per Respondent: 24 hours, 27 minutes.

Estimated Total Annual Burden Hours: 19,087,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 13, 2016.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2016–23182 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Change in Minimum Funding Method.

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Kerry Dennis at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Change in Minimum Funding Method.

OMB Number: 1545–1704.

Revenue Procedure Number: Revenue Procedure 2000–41.

Abstract: Revenue Procedure 2000–41 provides a mechanism whereby a plan sponsor or plan administrator may obtain a determination from the Internal Revenue Service that its proposed change in the method of funding its pension plan(s) meets the standards of section 412 of the Internal Revenue Code.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Respondents: 300.

Estimated Time per Respondent: 18 hours.

Estimated Total Annual Burden Hours: 5,400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 13, 2016.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2016–23133 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for [REG–106542–98] T.D. 9032

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning REG–106542–98, T.D. 9032, Election to Treat Trust as Part of an Estate (§ 1.645–1).

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Sara Covington at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Sara.L.Covington@IRS.gov.*

SUPPLEMENTARY INFORMATION:

Title: Election to Treat Trust as Part of an Estate.

OMB Number: 1545–1578.

Regulation Project Number: REG–106542–98, T.D. 9032.

Abstract: This regulation describes the procedures and requirements for making an election to have certain revocable trusts treated and taxed as part of an estate. The Taxpayer Relief Act of 1997 added section 646 to the Internal Revenue Code to permit the election.

Current Actions: There are no changes being made to the regulation at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 10,000.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 5,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 15, 2016.

Tuawana Pinkston,

IRS Supervisory Tax Analyst.

[FR Doc. 2016–23145 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 706–QDT, U.S. Estate Tax Return for Qualified Domestic Trusts.

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: U.S. Estate Tax Return for Qualified Domestic Trusts.

OMB Number: 1545–1212.

Form Number: 706–QDT.

Abstract: Is used by the trustee or the designated filer to compute and report the Federal estate tax imposed on qualified domestic trusts by Internal Revenue Code section 2056A. The IRS uses the information to enforce this tax and to verify that the tax has been properly computed.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households and business or other for-profit organizations.

Estimated Number of Respondents: 80.

Estimated Time per Respondent: 4 hours 28 minutes.

Estimated Total Annual Burden Hours: 357.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 13, 2016.

Tuawana Pinkston,

Supervisory Tax Analyst.

[FR Doc. 2016–23188 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 720–CS

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 720–CS, Carrier Summary Report.

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Carrier Summary Report.

OMB Number: 1545–1733.

Form Number: 720–CS.

Abstract: Representatives of the motor fuel industry, state governments, and the Federal government are working to ensure compliance with excise taxes on motor fuels. This joint effort has resulted in a system to track the movement of all products to and from terminals. Form 720–CS is an information return that will be used by carriers to report their monthly deliveries and receipts of products to and from terminals.

Current Actions: There are no changes being made to this form.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 39,900.

Estimated Time per Respondent: 5 hours, 15 minutes.

Estimated Total Annual Burden Hours: 209,418.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 19, 2016.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2016–23128 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning procedural rules for excise taxes currently reportable on Form 720.

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Allan Hopkins at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Procedural Rules for Excise Taxes Currently Reportable on Form 720.

OMB Number: 1545–1296.

Regulation Project Number: PS–27–91.

Abstract: Internal Revenue Code section 6302(c) authorizes the use of Government depositaries for the receipt of taxes imposed under the internal revenue laws. These regulations provide reporting and recordkeeping requirements related to return, payments, and deposits of tax for excise taxes currently reportable on Form 720.

Current Actions: There are no changes being made to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 10,500.

Estimated Time per Respondent: 14 minutes.

Estimated Total Annual Burden: 242,350.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 16, 2016.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2016–23131 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8908

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8908, Energy Efficient Home Credit.

DATES: Written comments should be received on or before November 25, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Energy Efficient Home Credit.

OMB Number: 1545–1979.

Form Number: Form 8908.

Abstract: Congress passed Public Law 109–58, the Energy Policy Act of 2005, on August 8, 2005, enacting legislation providing a tax credit for contractors producing new energy efficient homes. We created Form 8908 to reflect new code section 45L which allows qualified contractors to claim a credit for each qualified energy-efficient home sold in tax years ending after December 31, 2005.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 198,000.

Estimated Time per Respondent: 2 hours 35 minutes.

Estimated Total Annual Burden Hours: 512,820.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 12, 2016.

Tuawana Pinkston,

IRS Reports Clearance Officer.

[FR Doc. 2016–23154 Filed 9–23–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0571]

Proposed Information Collection (Customer Satisfaction Surveys); Activity: Comment Request

AGENCY: National Cemetery Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) National Cemetery Administration (NCA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each revised collection allow 60 days for public comment in response to the notice. This notice solicits comments on the collection of perceptions of the quality of service afforded by the National Cemetery Administration as judged by next of kin of those interred, or funeral directors who facilitate these interments.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 25, 2016.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Willie Lewis, National Cemetery Administration (43D3), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; or email: *willie.lewis@va.gov.* Please refer to "OMB Control No. 2900–0571" in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Willie Lewis at (202) 461–4242 or FAX (202) 501–2240.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, NCA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of NCA's functions, including whether the information will have practical utility; (2) the accuracy of NCA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Customer Satisfaction Surveys.

OMB Control Number: 2900–0571.

Type of Review: Revision of an approved collection.

Abstract: Improving Customer Service through Effective Performance Management, NCA will conduct surveys to determine the level of satisfaction with existing services among their customers. The surveys will solicit voluntary opinions and are not intended to collect information required to obtain or maintain eligibility for a VA program or benefit. Baseline data obtained through these information collections are used to validate customer service standards.

Affected Public: Individuals or households interring Veterans or eligible dependents, and funeral directors facilitating such interments.

Estimated Annual Burden Hours, Burden per Respondents, and Number of Respondents:

I. National Cemetery Administration Mail Surveys

a. *Next of Kin National Customer Satisfaction Survey* (Mail to 15,000 respondents/30 minutes per survey) = 7,500 hours.

b. *Funeral Directors National Customer Satisfaction Survey* (Mail to 4,000 respondents/30 minutes per survey) = 2,000 hours.

c. *Veterans-at-Large National Customer Satisfaction Survey* (Mail to 5,000 respondents/30 minutes per survey) = 2,500 hours.

II. Program/Specialized Service Survey

National Cemetery Administration Headstone and Marker/PMC Survey (Mail to 6,000 surveys/15 minutes per each) = 1,500.

Frequency of Response: On Occasion.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Program Specialist, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2016–23109 Filed 9–23–16; 8:45 am]

BILLING CODE 8320–01–P

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Part II

Social Security Administration

20 CFR Parts 404 and 416
Revised Medical Criteria for Evaluating Mental Disorders; Final Rule

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA–2007–0101]

RIN 0960–AF69

Revised Medical Criteria for Evaluating Mental Disorders

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: We are revising the criteria in the Listing of Impairments (listings) that we use to evaluate claims involving mental disorders in adults and children under titles II and XVI of the Social Security Act (Act). The revisions reflect our program experience, advances in medical knowledge, recommendations from a commissioned report, and public comments we received in response to a Notice of Proposed Rulemaking (NPRM).

DATES: These rules are effective January 17, 2017.

FOR FURTHER INFORMATION CONTACT: Cheryl A. Williams, Office of Medical Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 965–1020. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213, or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Background

We are revising and making final the rules for evaluating mental disorders we proposed in an NPRM published in the **Federal Register** on August 19, 2010 (75 FR 51336). Even though these rules will not go into effect until January 17, 2017 for clarity, we refer to them in this preamble as the ''final'' rules. We refer to the rules in effect prior to that time as the ''prior'' rules.

In the preamble to the NPRM, we discussed the revisions we proposed for the mental disorders body system. To the extent that we are adopting those revisions as we proposed them, we are not repeating that information here. Interested readers may refer to the preamble to the NPRM, available at *http://www.regulations.gov* under docket number SSA–2007–0101.

We are making several changes in these final rules from the NPRM based making final the non-substantive editorial changes, the conforming changes in other body systems, and the changes we proposed in 114.00.

Why are we revising the listings for evaluating mental disorders?

We developed these final rules as part of our ongoing review of the listings. We are revising the listings to update the medical criteria, provide more information on how we evaluate mental disorders, reflect our program experience, and address adjudicator questions. The revisions also reflect comments we received from medical experts and the public at an outreach policy conference, in response to an Advance Notice of Proposed Rulemaking (ANPRM) published on March 17, 2003 (68 FR 12639), and in response to the NPRM.

When will we begin to use these final rules?

As we noted in the dates section of this preamble, these final rules will be effective on January 17, 2017. We delayed the effective date of the rules to give us time to update our systems, provide training and guidance to all of our adjudicators, and revise our internal forms and notices before we implement the final rules. The prior rules will continue to apply until the effective date of these final rules. When the final rules become effective, we will apply them to new applications filed on or after the effective date of the rules, and to claims that are pending on or after the effective date.[1]

Public Comments on the NPRM

In the NPRM, we provided the public with a 90-day comment period that ended on November 17, 2010. We received 2,245 public comments during this comment period. The commenters included national medical organizations, advocacy groups, legal services organizations, national groups representing claimants' representatives, a national group representing disability examiners in the State agencies that make disability determinations for us, individual State agencies, and other members of the public. A number of the letters provided identical comments and recommendations.

We published a notice that reopened the NPRM comment period for 15 days on November 24, 2010 (75 FR 71632). We reopened the comment period to clarify and seek additional public comment about an aspect of the proposed definitions of the terms ''marked'' and ''extreme'' in sections 12.00 and 112.00 of our listings. We received 156 additional comments during the reopened comment period, for a total of 2,401 total public comments.

We considered all of the significant comments relevant to this rulemaking. We condensed and summarized the comments below. We have tried to present the commenters' concerns and suggestions accurately and completely, and we have responded to all significant issues that were within the scope of these rules. We provide our reasons for adopting or not adopting the recommendations in our responses below.

We also received comments supporting our proposed changes. We appreciate those comments; however, we did not include them. Finally, some of the comments were outside the scope of the rulemaking. In a few cases, we summarized and responded to such comments because they raised public concerns that we thought were important to address in this preamble. For example, we received comments about the statutory policies regarding how we evaluate substance use disorders. We thought that it was important to explain how we follow the requirements of the statute for claims in which a substance use disorder is involved. However, in most cases, we did not summarize or respond to comments that were outside the scope of our rulemaking. As one example, several commenters asked us to give equal weight to evidence that we receive from all medical sources and to consider that evidence separately from the other information collected from non-medical sources. We will retain these types of comments and consider them if they are appropriate for other rulemaking actions.

General Comments

Comment: One commenter, a clinical psychologist, did not recommend eliminating the paragraph A criteria from the prior listings because the criteria provide a basis for comparing and assessing the severity of different disorders, such as dysthymic disorder edition of the Diagnostic and Statistical Manual being available."

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[1] This means that we will use these final rules on and after their effective date, in any case in which we make a determination or decision. We expect that Federal courts will review our final decisions

Response: We agreed with the commenter and adopted the recommendations. The paragraph A criteria provide important medical information that we consider when we make disability determinations. The criteria also identify mental disorders that are significant and that we should consider at the "listings step" of the sequential evaluation process. For these reasons, we retained the paragraph A criteria in each listing. We revised most of the paragraph A criteria using the diagnostic features for the corresponding categories of mental disorders in the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition*[2] (DSM–5).

Comment: A commenter suggested that we use the terms "health" or "healthcare" instead of "medical," where appropriate.

Response: We adopted the comment and used the recommended terms where appropriate.

Comment: The spokesperson for an organization strongly recommended that SSA reviewers who possess child and adolescent health backgrounds review the applications of children to ensure the most accurate evaluation of the unique mental health considerations of the pediatric population.

Response: This comment is outside the scope of the NPRM, and we did not make any changes in these final rules in response to it. Section 221(h) of the Act requires us to make every reasonable effort to ensure that a qualified psychiatrist or psychologist has evaluated the case if the evidence indicates the existence of a mental impairment and we find that the person is not under a disability (see also §§ 404.1615(d) and 416.903(e)). After we published the NPRM, Congress passed the Bipartisan Budget Act of 2015 (BBA), Public Law 114–74. 129 Stat. 584. For determinations made on or after November 2, 2016, section 832 of the BBA requires us to make reasonable efforts to ensure that a qualified physician (in cases involving a physical impairment) or a qualified psychiatrist or psychologist (in cases involving a mental impairment) has completed the medical review of the case and any applicable residual functional capacity assessment. We will address the requirements of section 832 of the BBA in a separate rulemaking

Sections 404.1520a and 416.920a—Evaluation of Mental Impairments

Comment: Some commenters objected to the proposal to remove §§ 404.1520a and 416.920a. These regulations contain guidance about the "special technique" that we use to evaluate the severity of mental impairments for adults, known as the "psychiatric review technique." One commenter stated that the technique is a decision-making tool that is useful for our medical consultants and adjudicators. Another commenter indicated that the psychiatric review technique increases consistency in case outcomes.

Response: We adopted the comments because we agree with the reasons that the commenters provided. The final rules keep the special technique described in §§ 404.1520a and 416.920a and make the conforming changes necessary to implement these rules.

Sections 12.00A and 112.00A—How are the listings for mental disorders arranged, and what do they require?

Comment: After we published the NPRM, the American Psychiatric Association (APA) made the public aware that it was developing the DSM–5. Several commenters stated that it might be premature to implement significant modification to SSA's rules on mental disorders without the benefit of the DSM–5 being available. Some commenters recommended postponing these final rules until after the APA published the DSM–5 so these rules could include the updates in medical understanding reflected in the DSM–5.

Response: The APA published the DSM–5 in May 2013. We adopted the recommendation to include updates in medical knowledge in these final rules, where appropriate. For example, we:

- Revised the titles of most of the listings to reflect the terminology that the DSM–5 uses to describe categories of mental disorders;
- added a new listing for trauma- and stressor-related disorders that is separate from the listing for anxiety disorders;
- consulted the descriptions of mental disorders in the DSM–5 when we described the mental disorders that we evaluate under each listing; and
- consulted the diagnostic criteria in the DSM–5 when we revised the criteria for each listing.

Comment: A commenter recommended that we group listings

other and require different methods of determination."

Response: Although we acknowledge the distinction made by the commenter, we did not adopt the comment. We decided to continue the prior structure of headings, which lists each category of mental disorder as a separate listing, similar to the separate chapters of mental disorders in the DSM–5. Although the listings for cognitive disorders and psychiatric impairments appear next to each other in the ordering of the listings, and occasionally alternate within the ordering of the listings, they have separate titles, separate identifying numbers, and separate medical criteria. This format provides a clear distinction among the types of mental disorders. Additionally, given the relatively small number of mental disorders listings, grouping listings 12.02, 12.05, and 12.11 under separate headings would complicate the listings at a time when we are trying to simplify them. We maintained the ordering and numbering of the listings from our prior rules to ease the transition to these final rules, when possible.

Comment: One commenter suggested that the listings should consider combined disability for schizophrenia (12.03) and cognitive disorder (12.02), and for mood disorder (12.04) and cognitive disorder, because co-morbidity between these disorders "is the rule rather than the exception. The listings should expect this, and allow for this." Another commenter stated that it is important to "acknowledge the impact that dual diagnoses may have on an individual's functioning."

Response: We did not adopt the comment. Although we appreciate the issues raised by the commenters, it is not necessary or practical to provide listings that combine mental disorder categories for four reasons. First, §§ 404.1523 and 416.923 require us to consider the combined effect of all of a person's impairments in our disability determination processes. Second, when we determine whether a person's mental disorder is disabling under the law, it does not matter whether the person has a diagnosis or a combination of diagnoses. The controlling issue is whether the medically determinable mental impairment(s) result(s) in limitations in functioning that prevent the person from working. Third, given the numerous examples of co-morbid mental disorders, we do not think it is independently, appropriately, effectively, and on a sustained basis.

Sections 12.00B and 112.00B—Which mental disorders do we evaluate under each listing category?

Comment: One commenter noted that the guidance to adjudicators in paragraph "c" of all the 12.00B sections says, ". . . examples of disorders in this category include . . . , " without clarifying that the list of examples is not exhaustive. The commenter recommended that we make clear the non-exhaustive nature of the list of examples of mental disorders in each listing category by adding, "may include, but are not limited to."

Response: We did not adopt the comment. Several sections of the introductory text have lists that are not exhaustive. It would make the listings more difficult to use if we included repeated statements of "may include, but are not limited to" in every place in the listings where there is a list. The words "examples" and "include" sufficiently indicate that the lists are not exhaustive.

Comment: One commenter noted that in proposed 12.00B1, which is the description of listing 12.02, we provided a cross-reference to the documentation and evaluation guidance in 11.00F for traumatic brain injury (TBI) only. The commenter recommended that the entire "Dementia category" be cross-referenced so that "adjudicators give full consideration to both the neurological and mental limitations" associated with all the disorders evaluated under listing 12.02.

Response: We adopted this suggestion and ended final 12.00B1b with a parenthetical statement explaining that we evaluate neurological disorders under that body system (see 11.00). We evaluate cognitive impairments that result from neurological disorders under 12.02 if they do not satisfy the requirements in 11.00.

Comment: One commenter was concerned that the description of listing 12.02 did not appear to include the effects of head injuries that do not rise to the level of TBI. For example, adults with mental disorders who are homeless or incarcerated may have histories of physical abuse including blows to the head, fights or falls involving episodes of unconsciousness, or as pedestrian victims of vehicular accidents. These brain injuries, which can result from recurring, less traumatic assaults rather than from one or more traumatic injuries, can nevertheless add up to impaired cognitive functioning. The commenter urged us to include some direction to adjudicators in the listing about how to evaluate such histories.

Response: We did not adopt the comments. We agree that it is important for adjudicators to understand the differing impacts of TBI and a history of concussive injuries, as well as the lasting effects of substance use on the brain. However, the list of symptoms and signs and the examples of disorders in this listing category are not limited to those presented in 12.00B1a. Furthermore, they would readily include a history of concussive injuries resulting in brain damage. We believe that the list of symptoms and signs is sufficiently descriptive of the brain damage a person may incur after several such injuries that it is not necessary to expand it at this time.

Comment: A few commenters stated that it is difficult to determine whether listing 12.02 would apply in circumstances when cognitive limitations have resulted from the impact of substance use. To address this, a commenter recommended "some expansion of the symptoms or some addition to the overarching cognitive difficulties in this category."

Response: We adopted this comment. We included substance-induced cognitive disorder associated with drugs of abuse, medications, or toxins among the examples of disorders in this category in 12.00B1b.

Comment: Some commenters stated that the descriptions in 112.00B of two listing categories, proposed listing 112.02 (dementia and amnestic and other cognitive disorders) and proposed listing 112.11 (other disorders usually first diagnosed in childhood or adolescence) were "incompletely specified." The commenters noted that listing 112.02 includes TBI, but that there are many other types of childhood brain insult, including those related to tumors, epilepsy, cancer treatment, genetic disorders, exposure to toxins, and perinatal brain insults. The commenters observed that children with these conditions "fall more clearly in the first [listing] . . . than in the second. Unfortunately, which category encompasses these conditions is unclear from the descriptions of these two categories."

Response: We partially adopted these recommendations. We included mental impairments resulting from vascular malformation or progressive brain tumor in final 112.00B1b, where we list examples of disorders that we evaluate under listing 112.02. We did not include all of the examples that the commenters recommended because the lists of example disorders in 112.00B are not exhaustive. The examples include the impairments that we see most often in child claimants seeking benefits under our program. We may find that other disorders not included in the examples may meet or medically equal the respective listings, depending on the facts of each case.

We also added an explanation to final 112.00B1b that we evaluate neurological disorders under that body system (see 111.00). We evaluate cognitive impairments that result from neurological disorders under 112.02 if they do not satisfy the requirements in 111.00. We evaluate catastrophic genetic disorders under the listings in 110.00, 111.00, or 112.00, as appropriate. We evaluate genetic disorders that are not catastrophic under the affected body system(s).

In addition, to respond to this comment, we updated the title of listing 112.11 to "neurodevelopmental disorders," which is the term used in the DSM–5 for these types of impairments, to better distinguish the applicability of listings 112.02 and 112.11. Another intended distinction between these two listings is that of knowing, compared with not knowing, the cause of a child's mental impairment. If we know that the mental impairment has an organic cause, we will evaluate the impairment under listing 112.02; if the cause is not known, we will evaluate the impairment under listing 112.11.

Comment: The spokesperson for a professional organization recommended that we add language to proposed 112.00B7, where we describe personality disorders in our childhood listings, to indicate that personality disorders "typically have an onset in adolescence or early adulthood." The commenter stated that this characterization is consistent with information in the *Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision*[3] (DSM–IV–TR).

Response: We adopted the comment because the DSM–5 also indicates that personality disorders have an onset in adolescence or early adulthood. Final 112.00B7a includes the sentence, "Onset may occur in childhood but more typically occurs in adolescence or young adulthood."

Comment: A commenter noted that intermittent explosive disorder is "a diagnosis for which there is remaining confusion . . . [but which is] the most serious form of unclassified disorders of impulse control.'' The proposed guidelines for children are ''very clear that problems of self-regulation and impulsivity may potentially be [the] bases for [a finding of] 'marked' [or extreme] functional limitation.'' However, in the absence of other specific mental disorders, this disorder does not seem to fit a clear category, and adjudicators could overlook it in a disability determination. The commenter recommended that we state clearly that the diagnosis can apply to both children and adults.

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[3] American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision. Washington, DC, American Psychiatric Association, 2000.

Response: We adopted the comment. We are aware that the DSM–5 includes this diagnosis under the category of disruptive, impulse-control, and conduct disorders. In response to this comment, we added ''intermittent explosive disorder'' to the lists of example disorders that we evaluate in final 12.00B7b and 112.00B7b. We also revised the titles and the criteria for listings 12.08 and 112.08 to include impulse-control disorders. The new paragraph B4 criterion for adults and for children age 3 to age 18, adapt or manage oneself, also provides for consideration of problems of self-regulation and impulse control.

Comment: One commenter had several suggestions about proposed 12.00B8. First, the commenter recommended that we wait until the expert panel that was revising the DSM–IV completed its work before we proposed a definition for autism spectrum disorder (ASD). The commenter raised concern that failing to consider a new DSM–5 definition of these disorders could foster confusion among professionals, parents, and consumers, and could breed inconsistent definitions of ASD that might hinder the rights of children and adults to secure important benefits. Second, the commenters recommended that we should conduct in-depth research, expert consultation, and study to ensure that any proposed revision in the definition of ASD is warranted and correct. Third, the commenter stated that our proposed definition and criteria did not recognize that the core nature of ASD is not an intellectual impairment but a social and behavioral disability. Therefore, the commenter thought that the use of the paragraph B1 criteria (understand, remember, or apply information) and B3 criteria (concentrate, persist, or maintain pace) pointed to our lack of understanding of ASD.

Response: We did not adopt the comments, although we appreciated them, particularly given the intense concern and dialogue currently focused on ASD among medical professionals, educators, and parents. The APA ''defines'' or characterizes mental disorders based on research, consultation, and study in its diagnostic and statistical manual. The discussion of ASD in final 12.00B8a and 112.00B8a is not a ''proposed definition''; it is the characterization of this disorder found in the DSM–IV–TR and DSM–5. We understand that ASD is a highly complex disorder that interferes with a person's functioning in many ways, especially communication and social interaction. Therefore, the description of ASD in 12.00B8b begins with a discussion of social interaction and communication skills to reflect the emphasis in the DSM–5 on these two aspects of functioning.

Although some people with ASD do not have cognitive limitations, some do. Any method of evaluation intended to apply to everyone with ASD must provide criteria for assessing the range of possible limitations that individuals with the disorder may experience. For this reason, we apply all four of the paragraph B criteria, including paragraphs B1, understand, remember, or apply information, and B3, concentrate, persist, or maintain pace, to ASD.

Comment: A commenter recommended that if the APA removed ''Asperger's disorder'' as a separate diagnosis in the DSM–5, then these final rules should be consistent with that change.

Response: We adopted the comment, and we removed the references to Asperger's disorder in final 12.00B8b and 112.00B8b.

Comment: Some commenters suggested including specific mention of conduct disorder and oppositional defiant disorder in proposed 112.00B9c, where we listed examples of disorders we would evaluate under listing 112.11 (other disorders usually first diagnosed in childhood or adolescence). One of the commenters explained that these disorders are included in a similar chapter of the DSM–IV and are common diagnoses in childhood and adolescence.

Response: We did not adopt the comment. In the DSM–5, these disorders are now included in their own category of ''disruptive, impulse-control, and conduct disorders.'' To be consistent with the DSM–5, final listing 112.08, personality and impulse-control disorders, now includes aspects of ''disruptive, impulse-control, and conduct disorders.'' For example, final 112.00B7a includes impulsive anger and behavioral expression ''grossly out of proportion to any external provocation or psychosocial stressors.'' As another example, final 112.00B7b lists intermittent explosive disorder as one of examples of disorders we evaluate under listing 112.08. Additionally, the paragraph A criteria for final listing 112.08 includes ''recurrent, impulsive, aggressive behavioral outbursts.''

We did not include conduct disorder or oppositional defiant disorder in the list of examples of disorders that we evaluate under listing 112.08 because, in our programmatic experience, these impairments do not typically result in marked limitation in two of the ''paragraph B'' criteria, or extreme limitation in one of the criteria. However, the list of examples in final 12.00B7b is not exclusive. Either or both of these impairments may meet or medically equal the criteria in listing 112.08, depending on the facts of the individual case.

Sections 12.00C and 112.00C—What evidence do we need to evaluate your mental disorder? (Proposed 12.00G and 112.00G)

Comment: Several commenters requested that we include language in 12.00G2 that ''requires adjudicators to consider the factors in the regulations for weighing medical opinions.''

Response: We partially adopted this comment. We typically do not repeat guidance that we provide elsewhere in our regulations. However, in response to this comment, we added a reference to our regulations on evaluating opinion evidence in 12.00C1 and 112.00C1.

Comment: We received various comments regarding our reference to health care providers, such as physician assistants, nurses, licensed clinical social workers, and therapists, as medical sources whose evidence we will consider when evaluating a person's mental disorder and the resulting limitations in the person's functioning. Some organizations and individual commenters strongly supported our inclusion of these professionals, because they may be most familiar with a person's limitations in functioning. However, a professional medical organization opposed characterizing the reports of non-physician mental health professionals as ''evidence from medical sources,'' unless the work of the practitioner is recognized as medical in scope. The spokesperson maintained that any reference to ''medical sources'' of information should be limited to medical professionals such as medical doctors (MDs) or doctors of osteopathy (DOs). Other professional organizations said that our reference to ''physician'' and ''psychologist'' should be more specific, and should include references to psychiatrists and clinical neuropsychiatrists.

Response: We did not adopt the recommendations. Our recognition of non-physician health care providers as other medical sources of evidence is not a new rule; see §§ 404.1513(d) and 416.913(d). The list of these other medical sources in our regulations is not all-inclusive, and our mention of licensed clinical social workers and clinical mental health counselors in final 12.00C2 is appropriate, given their roles in the treatment of people with mental disorders in both private and public settings. We believe that these other medical professionals—because they typically see patients regularly—are important sources of the evidence we need to assess the severity of a person's mental disorder and the resulting limitations in the person's functioning.

Comment: The spokesperson for an organization questioned why we "separated" therapists and licensed clinical social workers (LCSW) in proposed 12.00G2, because LCSWs are therapists. This person noted that because the scope of social work is so broad, some people may be confused about the specific expertise of LCSWs, which is the largest group of therapists in the country.

Response: We adopted this comment. We replaced the example of "therapists" with that of "clinical mental health counselors" in final 12.00C2 for accuracy and completeness.

Comment: The spokesperson for an organization requested that we add case managers and similar staff as examples of non-medical sources of evidence.

Response: We adopted the comment. We added the examples of community support and outreach workers and case managers in final 12.00C3 and 12.00C5b where we discuss evidence from third parties and non-medical sources of longitudinal evidence.

Comment: While commenting on proposed 12.00D and expressing concerns about standardized testing, one person said that because mental disorders are not amenable to testing and are different for every individual, we should evaluate each person on a case-by-case basis, using the best sources of information about the person's condition. Some health care professionals, while acknowledging our need to make the determination of disability as "efficient" and "objective" as possible, urged us to recognize the importance of clinicians' observations, interpretations, and evaluations of their patients' mental disorders. Many direct service providers stressed the importance of obtaining information from people who, because they know and spend time with the person with a mental disorder, are in the best position to tell us how the person functions.

Response: We adopted the comments. We removed the provision in proposed 12.00D regarding standardized testing from these final rules. We discuss that change and our reasons for making it below, where we explain our responses to public comments about sections 12.00F and 112.00F.

Regarding the commenters' suggestions about sources of evidence and our evaluation of mental disorders, we appreciate the views and recommendations, and the NPRM and the final rules reflect them. For example, in final 12.00C2, we explain how we consider evidence from medical sources. We state that we consider all relevant medical evidence, including the results of physical or mental status examinations, structured clinical interviews, psychiatric or psychological rating scales, measures of adaptive functioning, and observations and descriptions of how a claimant functions during examinations or therapy. As another example, in final 12.00C3, we state that we consider evidence from third parties who can provide information about a claimant's mental disorder, including a claimant's symptoms, daily functioning, and medical treatment. We added to the list examples of people who can provide us with this evidence. The list of examples includes family, caregivers, friends, neighbors, clergy, social workers, shelter staff, or other community support and outreach workers.

Regarding the suggestion for a case-by-case assessment of each claimant, our longstanding principle has been to evaluate each person who files a disability claim on an individualized basis. We understand that no mental disorder affects all individuals in the same way; rather, mental disorders affect each person uniquely in every aspect of his or her life. Our process of evaluating four criteria that reflect a person's functional abilities and rating the person's limitations for each criterion is just one example of our commitment to individualized, case-by-case assessments.

Comment: One commenter recommended that we recognize the unique circumstances of people who are experiencing homelessness, and permit longitudinal evidence of their mental disorders from social workers.

Response: We adopted this comment. In final 12.00C5b, we included "chronic homelessness" as an example of a situation that may make it difficult to provide longitudinal medical evidence. This section also lists social workers as a source of longitudinal evidence of a person's mental disorder.

Comment: Some commenters recommended that we emphasize the value and importance of using standardized assessment instruments specifically developed for use with children. The commenter suggested that, for example, additional language could be included in proposed 112.00G5 to ensure that tests used are appropriate to the age and condition of the child.

Response: Although we appreciate the concern raised by the commenter, we did not adopt the comment. We cannot control what standardized instruments medical and educational providers use when evaluating children. We consider all relevant evidence that we receive. If we receive the results from standardized assessment instruments not specifically developed for use with children, or that were not appropriate to the age and condition of the child, those are important facts that we will consider when we evaluate the evidence.

To the extent that the comments pertained to our policies for ordering standardized assessment instruments when we purchase psychological consultative examinations for children, the comment would be outside of the scope of the proposed rulemaking. Our policies regarding consultative examinations for children are in §§ 416.917–416.919t.

Comment: Spokespersons for two professional organizations expressed concern about the absence of specific reference to neuropsychological testing and its application in the evaluation of claims of both adults and children with mental disorders. One spokesperson said that neuropsychological examinations are particularly relevant when neurodevelopmental or acquired brain dysfunction forms the basis of a person's category of disability. Another spokesperson said that proper evaluation of childhood brain insults requires comprehensive neuropsychological assessments because, "proper evaluation of these disorders requires assessments of specific skill domains such as would be provided in comprehensive neuropsychological assessments."

Response: We did not adopt these comments. We do not believe that it is necessary to refer to both psychological and neuropsychological testing because neuropsychological testing is a subset of psychological testing, and the same broad principles apply to our evaluation of these tests. In addition, neuropsychological test batteries, while useful in clinical and research settings, have limited applicability in the disability program. This is because such batteries generally contain a number of subtests that focus on small units of behavior. These types of clinical measures often have little direct relevance to functional behavior as we assess it under the disability program. We will consider the results from neuropsychological assessments when they are a part of the evidence in the case record. We will not purchase formal neuropsychological test batteries, such as the Halstead-Reitan Neuropsychological Test Battery. We may purchase a neuropsychological test to assess specific neurocognitive deficits if the case evidence is insufficient to evaluate the claim, or to obtain evidence needed to resolve a conflict, inconsistency, or ambiguity in the evidence.

Comment: Spokespersons for some professional organizations recommended that we use symptom validity testing (SVT) to enhance validity of psychological consultative examinations (PCE) and to identify malingering. The commenters said that using SVT in disability evaluations is one method of enhancing validity, and they made two related recommendations. First, the commenter suggested that we consult with the American Academy of Clinical Neuropsychology and related organizations to take advantage of their expertise in revising and expanding provisions addressing symptom validity in the regulations. Second, the commenter suggested that we promote training in SVT methods or encourage change in PCE practice to include routine use of SVT to evaluate response bias, effort, and malingering during psychological examinations.

Response: We did not adopt the comment. Inaccurate self-report of symptoms and behavior occurs when individuals, because of psychiatric disorders or personality traits, over- or under-report the nature, range, and severity of symptoms. Inaccuracy in self-report does not necessarily mean there is no medically determinable impairment that imposes real limitations. Since we do not adjudicate a claim based on symptoms alone, objective observation and description of the person's behavior must support any conclusions based on a test(s) of malingering. Additionally, the conclusions must be consistent with other evidence.

Sections 12.00D and 112.00D—How do we consider psychosocial supports, structured settings, living arrangements, and treatment? (Proposed 12.00F and 112.00F)

Comment: Several commenters asked that we make clear that the list of psychosocial supports and structured settings and living arrangements does not include all possible supports a person with mental disorder may receive, or in which he or she may be involved.

Response: We adopted the comment. We did not intend the list of supports in proposed 12.00F2 be inclusive of everything that we would consider when we evaluate a person's particular circumstances. We intended that the list only include examples of such supports and settings. In response to the comments, we added a phrase to final 12.00D1 indicating that the types of supports listed in that section are "some examples of the supports" that a person "may" receive.

Comment: Several commenters requested that we add supported housing with wrap-around services as an example of psychosocial supports and highly structured settings in proposed 12.00F2.

Response: We adopted the comment. We included reference to " '24/7 wrap-around' mental health services" to the examples of possible supports and structured settings and living arrangements in final 12.00D1d.

Comment: One commenter recommended that we expand the list of psychosocial supports and highly structured settings to include examples relevant to people whose impairments have contributed to homelessness and infrequent access to supports. The commenter said that the list of psychosocial supports, structured settings, and treatment presumes that a person has a regular and stable place to live, has social connections with family and friends, and has connections with treatment and services. However, clients of health care services for homeless people are often socially isolated, disconnected from services, and do not have a place to live, or live in residential facilities for homeless people.

Response: We adopted the comment. We added an example in final 12.00D1f to include the situation of people who receive assistance from a crisis response team, social workers, or community mental health workers who help them meet their needs and who may also represent them in matters with government or community social services.

Sections 12.00E and 112.00E—What are the paragraph B criteria? (Proposed 12.00C and 112.00C)

Comment: We received comments presenting several different reasons for retaining the prior paragraph B1 criterion, activities of daily living (ADL). The spokesperson for an organization was concerned that the proposed change to paragraph B1 will hinder accurate disability determinations for people with severe disabilities who do not regularly engage in work or treatment. This commenter said that the category of ADL is easily understandable to providers and that important information and significant details will be lost if this category is eliminated. Two commenters remarked that it is easier to document limitations in ADL than the proposed paragraph B1 criterion, particularly with respect to adults with mental disorders who are homeless and unable to access or attend consistent treatment. Another commenter said that if a person cannot adequately manage his or her ADL, it is reasonable to assume that working at substantial gainful activity levels would be extremely unlikely. One commenter said that removing ADL as a criterion partly ignores the basic self-reported information we have about what a person actually is doing while not in a work setting. Another commenter said that "as a non-clinician," it is easier to see how someone is having a difficult time completing ADL than to give examples of when he or she does or does not "understand" things or "apply information."

Response: We did not adopt these comments. However, we will continue to consider how a person performs ADL when we evaluate the effects of a mental disorder on the person's functioning and ability to work. ADL information will continue to be central to our documentation of a person's mental disorder, because knowing how the mental disorder affects the person's day-to-day functioning can help us evaluate how it would affect the person's functioning in a work setting.

The final rules will use information about a person's ADL as a principal source of information, rather than as a criterion of disability. This change is congruent with the focus of the paragraph B criteria on the mental abilities a person uses to perform work activities. The principle is that any given activity, including ADL, may involve the simultaneous use of the paragraph B areas of mental functioning. For example, with respect to the same activity, one person may have trouble understanding and remembering what to do, while another person may understand the activity but have trouble concentrating and staying on task to do it. Still another person may understand the activity but be unable to engage in it with other people, or may feel such frustration in doing it that he loses self-control in the situation. Rather than ADL being one separate area in which we evaluate a person's functioning, ADL are now a source of information about all four of the paragraph B areas of mental functioning. We will focus on this aspect of the final rules in our formal training of adjudicators.

Comment: A commenter stated that the ADL information solicited from a person experiencing homelessness, along with third party evidence, is crucial to providing adjudicators with an accurate portrayal of limitations in daily functioning. A spokesperson for a professional organization raised concern that increased documentation requirements would disproportionately affect homeless people with mental illness, because they do not have access to transportation to appointments, and face significant challenges in seeking treatment, attending appointments, and obtaining documentation. The spokesperson indicated that although homelessness is not an indication of functional limitation under the paragraph B criteria, a prolonged period of homelessness reflects significant barriers, such as a disabling condition, in obtaining and maintaining housing and health stability. The commenter suggested that it would be an oversight to ignore the most significant factor of a person's ADL (homelessness). A related comment was that it would be helpful to claimants and adjudicators if we provided examples of evidence we need from the person filing for disability benefits and from people who know him or her.

Response: We did not adopt the comments. As we explained in response to a previous comment, ADL information continues to be central to how we document a person's mental disorder and its effects on a person's daily functioning. Under these rules, we will use ADL as a source of information about all four of the paragraph B areas of mental functioning. We appreciate the unique difficulties that homeless people have with respect to access to transportation to appointments, and their significant challenges in seeking treatment, attending appointments, and obtaining documentation. We have special case processing and development guidance for homeless claimants in our field offices and our State agency partners in our sub-regulatory policies. Furthermore, we do not agree that these final rules increase documentation requirements. However, in final 12.00C5b, we included chronic homelessness as an example of a situation that may make it difficult to obtain longitudinal medical evidence.

Comment: The spokesperson for one organization said that it might be difficult to identify and distinguish sufficient information to satisfy the criteria in paragraphs B1 and B3, because the categories appear to be redundant. While proposed paragraph B1 (understand, remember, and apply information) involves a person's cognitive abilities, proposed paragraph B3 (concentrate, persist, and maintain pace) involves attention. However, these two criteria have "significant overlap." Medical records already lack sufficient functional information for disability determination, and moving to a more work-centered approach (using those criteria) may exclude some people.

Response: We did not make any changes to the final rules in response to these comments. We agree that there is "overlap" between the abilities to understand, remember, or apply information, and to concentrate, persist, or maintain pace—given the need to pay attention when using both abilities. It is also true that approaches to categorizing human abilities and functioning—in other contexts and for other reasons—use different categories to describe mental abilities. However, the Mental Cognitive Demands Subcommittee of the Occupational Information Development Advisory Panel (OIDAP) (referenced in the preamble to the NPRM) recommended separate categories and descriptions for "neurocognitive functioning," and "initiative and persistence,"[4] which generally parallel the final paragraphs 12.00E1 and 12.00E3 criteria, respectively.

In our prior rules on evaluating mental disorders, there is precedent for using the two separate paragraph B criteria to evaluate a person's functioning. Since 1990, in the rules for evaluating mental disorders in children, we have used separate criteria for assessing a child's cognitive functioning and the child's concentration, persistence, and pace (see 112.00). Since 1991, the rules for assessing a claimant's mental residual functional capacity (MRFC) have specifically addressed non-exertional limitations, including limitations in the person's ability to understand or remember instructions and to maintain attention or concentration (see §§ 404.1569a(c) and 416.969a(c)). Our programmatic experience has been that when a person's difficulties with the abilities described in paragraphs B1 and B3 rise to the level of marked limitation, the medical and non-medical evidence in the record is typically sufficient to distinguish the person's limitations in those abilities.

Comment: Many commenters were concerned that our use of "and" in proposed paragraph B1 (understand, remember, and apply information) and proposed paragraph B3 (concentrate, persist, and maintain pace) could be misinterpreted as a change in policy that would set a higher standard for a person's mental disorder satisfying those criteria. The misinterpretation would be that a claimant would have to demonstrate limitation in each of the three parts of B1 and B3 rather than in only one part. The commenters recommended that we change the word "and" to "or" in B1 and B3 for all of the listings. They also recommended that we make clear in the 12.00 Introduction that if a person has "extreme" or "marked" limitation in any single part of the B1 or B3 areas of mental functioning, the person has that degree of limitation for that whole paragraph B criterion.

Response: We agree with the commenters and the reasons they provided. Therefore, we adopted these recommendations. To ensure that adjudicators apply these criteria properly, we explain in new sections, final 12.00F3f and 112.00F3e, that for paragraphs B1, B3, and B4, the greatest degree of limitation of any single part of the area of mental functioning will direct the rating of limitation for that whole area of functioning.

Comment: Several commenters expressed concern about the new paragraph B4 criterion, manage oneself. Two commenters said that the criterion is "vague and very difficult to document . . . and open to extremely subjective interpretation." They further commented that the proposed criterion of "manage oneself in a work environment" is "undefined and very subjective." Another commenter said, "self-management and skills for independence encompass more than the workplace and this should not be the requirement." The spokesperson for an organization questioned the usefulness of "managing oneself in a work environment" as a separate paragraph B criterion because this "appears to be the overarching question when evaluating functional limitations; this is precisely what the four functional areas attempt to assess.''

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[4] Occupational Information Development Advisory Panel (OIDAP) under the Federal Advisory Committee Act. Mental-Cognitive Subcommittee Content Model and Classification Recommendations. Report of the Mental-Cognitive Subcommittee, Appendix C, C–15 and C–16. September 2009. *https://www.ssa.gov/oidap/Documents/AppendixC.pdf.*

Response: We partially adopted the comments. In these final rules, we made changes to paragraph B4 to clarify the abilities and behaviors that the criterion ''managing oneself'' encompasses. We added more examples of ''managing oneself'' in the workplace in final 12.00E4, such as distinguishing between acceptable and unacceptable work performance, setting realistic goals, and making plans independently of others. Another change we made was adding that a person's ability to maintain personal hygiene and attire should be appropriate to a work setting. After making these revisions, we changed the title to include the word ''adapt'' to reflect the abilities and behaviors that we consider for this criterion.

Additionally, we note that the content of the B4 criterion is not new or different from what adjudicators are already accustomed to evaluating and documenting. Our adjudicators already consider a person's ability to respond appropriately to work pressures when they assess the nature and extent of a person's mental limitations and determine the person's residual functional capacity for work activity (see §§ 404.1545(c) and 416.945(c)).

With respect to the comment that self-management and skills for independence encompass more than the workplace, we agree that the ability and skills we address in paragraph B4 are important in daily life as well as the workplace. The statutory definition of disability for adults limits our determination to whether a person is able to work (and, therefore, function in the workplace). However, we use all the information available to us about how a person functions, including how the person manages him- or herself from day-to-day at home and in the community, to make this determination.

Comment: A spokesperson for an organization expressed concern that eliminating ''repeated episodes of decompensation'' from the paragraph B criteria would reduce our ability to measure the chronic nature and impact of a mental illness. The commenter noted that evaluating a person's decompensation patterns over time is crucial for determining the full impact of a mental disorder. The commenter also said that current medical records, particularly those for people with transient treatment, provide only a momentary snapshot of the illness.

Response: We did not adopt these comments. We do not agree that eliminating ''episodes of decompensation'' from the paragraph B criteria will reduce our ability to measure the chronic nature and impact of a mental illness. To address the chronic nature of a mental disorder, we provide guidelines in several sections of the final rules: Final 12.00C5, concerning the need for longitudinal evidence; final 12.00F4, concerning how we evaluate disorders involving exacerbations and remissions; and final 12.00G and the paragraph C criteria, which address ''serious and persistent'' mental disorders.

Comment: One commenter found the proposed definitions of the B criteria lacking in detail and examples to guide adjudicators and advocates, particularly when compared to our prior rules. Another commenter said that the proposed B2 criterion for interacting with others was too broad, and difficult to assess and use in determining a person's mental status. The commenter said it would be more helpful if we were to provide examples of more specific interpersonal behaviors that reflect how one handles conflicts in adaptive, compared with maladaptive and impaired, ways.

Response: We adopted these comments. We included more examples of each of the criteria in final 12.00E to provide adjudicators a more detailed understanding of the four paragraph B criteria in these final rules. We included the example of ''keeping social interactions free of excessive irritability, sensitivity, argumentativeness, or suspiciousness'' in our explanation of paragraph B2 to describe an adaptive way to interact socially in the context of maladaptive examples of social interactions.

Sections 12.00F and 112.00F—How do we use the paragraph B criteria to evaluate your mental disorder? (Proposed 12.00D and 112.00D)

Comment: Many commenters representing various organizations, health care professionals, families of people with mental disorders, and others opposed the language in proposed 12.00D regarding using standardized test results to inform our assessment of whether a claimant's impairment results in marked or extreme limitations of his or her mental abilities. Commenters expressed a wide array of opinions and recommendations; the most frequently made public comment was, ''the proposed use of standardized tests to measure the functioning of people with serious mental illnesses is a flawed approach, with no scientific basis.''

Response: In response to these comments, we removed this provision in the final rule. We had included the language in proposed 12.00D based on comments that we received in response to the ANPRM. In the ANPRM, we invited the public to send us comments and suggestions for updating and revising the mental disorders listings. In response to the ANPRM, two major organizations representing people with cognitive and other mental disorders advised that, in revising rules for mental disorders in adults, we should incorporate the definitions of ''marked'' and ''extreme'' limitations based on standardized test results that we have in the childhood disability regulations in § 416.926a(e) of this chapter. In response to that recommendation, and as explained in the NPRM, we included these provisions from the childhood rules in proposed 12.00D (75 FR 51341–42). However, in their comments on the 2010 NPRM, those same organizations, and many other commenters, presented the objections summarized above about using the childhood regulatory definitions of ''marked'' and ''extreme'' based on the results of standardized testing.

In these final rules, we removed the provisions and explanations that were in proposed 12.00D. We provide guidance that is different from what we proposed in 12.00D in final 12.00F (*How do we use the paragraph B criteria to evaluate your mental disorder?*). Final 12.00F explains how we rate the degree of a person's limitations when using the four paragraph B areas of mental functioning. For example, we provide a five-point rating scale, with definitions of each point on the scale that are unrelated to standardized test results. We explain how we use the paragraph B criteria and the rating scale to evaluate a person's ability to function independently, appropriately, and effectively, on a sustained basis.

Comment: A spokesperson for an organization stated that psychometric tests should not be the sole determinant of ''marked'' and ''extreme'' limitation for children. The commenter said that we should base our determination of the level of a child's limitation on the overall clinical assessment of the child, with equal emphasis placed on both testing and clinical assessment.

Response: We do not rely on test scores alone when we decide whether a child is disabled. As explained in § 416.924a, when we determine disability, we consider all of the relevant information in a child's case record. We do not consider any single piece of evidence, including test scores, in isolation. The medical evidence we consider includes clinical observations from, for example, a child's physician, psychiatrist, psychologist, or speech-language pathologist, and from other medical sources such as physical, occupational, and rehabilitation therapists. These sources of evidence may provide us their clinical assessments of a child's impairment(s) and its effects on the child's functioning. Professional sources such as teachers and school counselors, as well as the child's caregivers and others who know the child, also provide information important to any disability determination.

Comment: Many commenters recommended that we use a 5-point or 6-point scale to evaluate impairment severity. Some commenters supported use of a 5-point scale "to assist disability examiners to anchor the standards of 'marked' or 'extreme' limitations in functioning." Others submitted a rationale for using a 6-point scale, saying that a 5-point scale defined by "no" limitation at one end and "extreme"—but not total—limitation at the other is confusing and misleading. They recommended that, to provide more clarification to adjudicators and medical sources, we should use a 6-point scale consisting of: No limitation; slight limitation; moderate limitation; marked limitation; extreme limitation; and total limitation.

Response: We adopted the recommendation to retain the 5-point rating scale from our prior rules to assess impairment severity for adults. We agree that the use of this scale will help "anchor" the standards of "marked" and "extreme." We provide definitions for each of the points of the scale in final 12.00F2. With respect to the recommendation that we use a six-point scale to evaluate impairment severity (that is, the addition of a sixth point at the "severe" end of the 5-point scale), we disagree that such a scale "would provide more clarification to adjudicators and medical sources." "Extreme" is the rating we give to the worst limitations; however, it does not mean a total lack or loss of ability to function. A sixth rating point of "total limitation" would not serve any useful function in the disability program.

Comment: The spokesperson for an organization recommended that we use the term "mild" to describe the second point on the five-point scale for assessing the degree of a person's limitations. The commenter objected to the term "slight," as suggested in proposed 12.00D. The commenter stated that professionals use the term "mild" when rating and ranking human behavior.

Response: We adopted the comment. As discussed above, because we are retaining our prior policies pertaining to the use of a five-point scale in these final rules, we will continue to use the word "mild" to describe the second point on the scale. By using the same words to describe the same policies, we hope to prevent any confusion that would result from using a new and different word.

Comment: The spokesperson for an organization requested "additional clarification that it is not the role of the adjudicator to evaluate a claimant's ability to function in the workplace based on his or her own conclusions drawn from a single observation of the claimant."

Response: We did not adopt the comment. We do not believe the additional clarification that the commenter requested is necessary in these final rules. The introductory text states in multiple places that we will consider all relevant evidence when we evaluate a person's ability to function in the workplace. Final section 12.00F3a states that we will use all of the relevant medical and non-medical evidence in the case record to evaluate a person's mental disorder. In final section 12.00F3c, we indicate that we will consider all evidence about a person's mental disorder and daily functioning before we reach a conclusion about his or her ability to work. In final 12.00F3d, we state that no single piece of information can establish the degree of limitation of a paragraph B area of mental functioning. We do not believe the additional statement requested by the commenter is necessary in light of the other guidance throughout final 12.00F.

Comment: Several commenters suggested that we consider homelessness (along with a diagnosis of mental illness) as an indicator of functional impairment. The commenters also proposed that we could establish a period of homelessness that we would consider an indicator of functional difficulty.

Response: We did not adopt the comment. When we evaluate a person's mental disorder(s), we consider all the information available to us that could indicate limitations in the person's functioning. If the person is homeless, we consider that fact, including how long he or she has been homeless. As stated in final 12.00C5b, we try to learn about how a person functions day-to-day from the people who spend time with him or her. However, it would not be appropriate to establish a specific period of homelessness as an indicator of limited functioning, because we do not believe there is a measurable correlation between the severity of a person's mental disorder and the length of time the person has been homeless.

Comment: A commenter requested that we place a greater emphasis on a claimant's ability to sustain work activity for 8 hours per day, five days per week, on a regular and continuing basis.

Response: We adopted the comment. In final 12.00F4a, where we discuss how we evaluate mental disorders involving exacerbations and remissions, we explain that we will consider whether a person can use his or her areas of mental functioning on a regular and continuing basis (8 hours a day, 5 days a week, or an equivalent work schedule).

Comment: The spokesperson for an organization recommended that we change our policies so that a "moderate" degree of impairment in three or more areas of functioning demonstrates an individual's inability to work.

Response: We did not adopt the comment. It has been our longstanding policy to require that a claimant have "marked" limitation in two areas of functioning or "extreme" limitation in one area of functioning to be found disabled at the third step of the sequential evaluation process. At this step, we consider whether the person's impairment meets or equals a listed impairment.[5] In other words, the impairment must be "severe enough to prevent an individual from doing any gainful activity, regardless of his or her age, education, or work experience" (or, for a child under age 18 for title XVI eligibility, the impairment causes "marked and severe functional limitations").[6] Our programmatic experience includes the use of a standard based on moderate limitations in three domains in the title XVI childhood disability program from February 11, 1991 through August 21, 1996.[7] We used this standard at a fourth step of the childhood sequential evaluation process, not at the third step.[8] In our experience with this standard, the spectrum of limitation that may constitute "moderate" limitation ranges from limitations that may be close to "marked" in severity to limitations that may be close to the "mild" level. Thus, people who have moderate limitation in three or more functional areas do not always meet our definition of disability. We assess these types of claims most accurately at the fourth step of the sequential evaluation process, where we consider a claimant's residual functional capacity and work experience, and the fifth step of the sequential evaluation process, where we also consider a claimant's age and education.

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[5] §§ 404.1520, 416.920, and 416.924.

[6] §§ 404.1525(a) and 416.925(a).

[7] See 56 FR 5560 for the regulation in effect from February 11, 1991, through September 8, 1993, and 58 FR 47584 for the regulation in effect from September 9, 1993, through August 21, 1996.

[8] The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 eliminated this standard and the fourth step of the childhood sequential evaluation process (Pub. L. 104–193).

Comment: Several commenters were concerned that a clinician's use of the term "mild" or "moderate" in diagnosing the stage or level of a person's mental disorder (for example, as in a diagnosis of Alzheimer's disease) might be misconstrued as a description of the person's level of functioning with respect to the paragraph B or C criteria. They suggested that we include language in 12.00 to preclude any misunderstanding of how medical providers use these terms in medical records. Presenting the opposite viewpoint, one commenter recommended that we incorporate the DSM–IV–TR definitions for "mild," "moderate," and "severe" in these rules as our program definitions for "mild," "marked," and "extreme."

Response: We adopted the first comment for the reason the commenters provided. We added the recommended language to final 12.00F3a. We did not adopt the second comment for three reasons. First, the definitions of the terms "mild," "moderate," and "severe" in the updated DSM–5 are different depending on the type of mental impairment the words are describing. For example, the DSM–5 definition of "mild" to describe major neurocognitive disorder is different from the definition of "mild" to describe major depressive disorder, and different from the definition of "mild" to describe intellectual disability. The different definitions of these terms in the DSM–5 serve the needs of trained medical and psychological specialists. However, they would be confusing and burdensome for our adjudicators to use.

Second and related to the first point above, the DSM–5 does not use the terms "mild," "moderate," and "severe" consistently for all of the types of mental disorders. For example, the DSM–5 does not use the words "mild," "moderate," or "severe" to describe anxiety disorders. In addition to these three words, the DSM–5 also uses the word "profound" to describe some cases of intellectual disability. As a result, if we were to rely on the DSM–5 definitions of these terms, we would not have definitions for all types of impairments. The DSM–5 definitions are not comprehensive enough for our program purposes.

Third, we have used the words "mild," "moderate," "marked," and "extreme" under our prior rules for many years. Although we did not provide definitions for most of these terms until now, the definitions in final 12.00F are consistent with how our adjudicators have understood and used those words in our program since we first introduced the rating scale in 1985. As a result, the definitions we provide in these rules do not represent a departure from prior policy. However, the DSM–5 definitions for these terms are not consistent with how we have used these words in our program in the past. For example, a claimant who has "mild" intellectual disability according to the DSM–5 may have "moderate" or "marked" limitation in understanding, remembering, or applying information, depending on the facts of the case. We believe that using familiar definitions and concepts to define familiar terms will be easier for the public and adjudicators, rather than describing familiar terms in changed and unfamiliar ways.

For these three reasons, we did not adopt the second recommendation.

Comment: A commenter recommended that we add language to proposed 12.00F and 112.00F to explain how adjudicators assess claims involving psychosocial supports and highly structured settings.

Response: We adopted the comment. We added final sections 12.00F3e and 112.00F3d to explain how we consider the effects of support, supervision, and structure when we rate the degree of limitation that a person has. We explain that the more extensive the support the person needs from others, or the more structured the setting the person needs in order to function, the more limited we will find him or her to be.

Sections 12.00G and 112.00G—What are the paragraph C criteria, and how do we use them to evaluate your mental disorder? (Proposed 12.00E and 112.00E)

Comment: We received various comments regarding our proposal to use the term "deterioration" rather than "decompensation" in the paragraph C criteria of the listings. Commenters who opposed the change cited confusion and negative connotations associated with the word "deterioration." Commenters who agreed with the change stated that "decompensation" refers to a state of extreme deterioration often leading to hospitalization. They further noted that a person with a serious and persistent mental illness does not need to be in a state of full-blown decompensation to have serious deficits in daily activities and in social or occupational functioning. Another commenter recommended that we keep some of the examples in prior 12.00C4 to explain what we mean by "deterioration"; for example, increase or change in medication, more help from others to support the person's functioning, or the need to live in a controlled environment.

Response: We did not adopt the suggestion to use the term "decompensation." We agree with the majority of comments that we received in response to the NPRM supporting our proposal to use "deterioration." As we noted in the NPRM,[9] "decompensation . . . refers to a state of extreme deterioration, often leading to hospitalization." It also suggests that the person is a danger to him- or herself or others. That degree of impairment exceeds what we generally intend in the paragraph C criteria when we refer to the "marginal adjustment" that makes a person vulnerable to deterioration in functioning. Furthermore, we also believe that continuing to use "decompensation" may result in confusion between the prior rules and these final rules. In these final rules, we no longer require "repeated episodes of decompensation, each of extended duration."[10] We agree with the comment that some of the examples in prior 12.00C4 help explain what we mean by "deterioration." We adopted that comment, and we included examples in final 12.00G2c.

Comment: One commenter was concerned that the emphasis in proposed 12.00E2b on continued treatment or highly structured settings would not be flexible enough to evaluate certain phobic conditions, such as agoraphobia, the symptoms of which often preclude such treatment. The commenter suggested that proposed 12.00F2 should state that the circumstances in paragraph C1 are not exhaustive, and that we consider other types of supportive services, including in the home.

Response: We adopted the comment. We added language to final 12.00D1 to indicate that the list of psychosocial supports, structured settings, and living arrangements are only examples of supports that a person may receive. Both proposed 12.00F2 and final 12.00D1 include the home of a person who lives alone and has eliminated all but minimally necessary contact with the outside world as an example of a "highly structured environment." We intended this example to apply to persons with phobic conditions, such as agoraphobia.

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[9] See 75 FR 51338.

[10] In our prior rules, this requirement was in the B4 criterion in all of the listings except 12.05. In prior 12.05, the requirement was in the D4 criterion. It was also in the C1 criterion in prior 12.02, 12.03, and 12.04.

Comment: One commenter was concerned that the paragraph C criteria, and the description of the criteria in proposed 12.00E, did not account for a claimant's lack of insight or awareness about his or her mental disorder. The commenter stated that many people with mental disorders lack awareness about their mental disorders and therefore refuse treatment. The commenter recommended that the policies should not place at a disadvantage those claimants whose mental disorders cause them to refuse to attend or follow up with treatment.

Response: We agree with the commenter's reasoning, and we adopted the recommendation. We added language in final 12.00G2b stating that we will consider periods of inconsistent treatment or lack of compliance with treatment that may result from a claimant's mental disorder. The section explains that if the evidence indicates that the claimant's inconsistent treatment or lack of compliance is a feature of his or her mental disorder, and it has led to an exacerbation of his or her symptoms and signs, we will not use it as evidence to support a finding that the claimant has not received ongoing medical treatment.

Sections 12.00H and 112.00H—How do we document and evaluate intellectual disorder under 12.05 (112.05)?

Comment: Several commenters were concerned that proposed 12.00D4 would allow disability decision-makers to reject standardized test scores based on their subjective opinions of a person's day-to-day functioning. The commenters also stated that the language in this section would give an inappropriate amount of discretion to the adjudicators, who do not have the expertise of the test administrators. They cited two examples of possible rejection of "valid test scores": When a person's daily functioning is actually very basic or supported by others; or when a person's strengths in one area are used to find that the person's test results or limitations in another area are "not credible." These commenters asked us to state clearly that interpretation of a test is primarily the responsibility of the professional who administered the test, and that adjudicators cannot override the validity of a medical professional's interpretation of test results.

Response: We adopted most of these comments by making several changes in the final rules. First, we removed the discussion of evaluating test scores from final 12.00F, which replaces proposed 12.00D. Like proposed 12.00D, final 12.00F provides guidance to adjudicators about how to evaluate a claimant's functioning using the "paragraph B" areas of mental functioning. However, final 12.00F does not include a discussion of standardized test scores. Second, we added a new section, final 12.00H, to organize and expand the guidance to adjudicators about how to evaluate a cognitive impairment under listing 12.05. We moved the discussion about standardized test scores into final 12.00H2 because only listing 12.05B requires standardized test scores.

Third, we revised the guidance to indicate that only qualified specialists, Federal and State agency medical and psychological consultants, and other contracted medical and psychological experts, may conclude that an obtained IQ score(s) is not an accurate reflection of a claimant's general intellectual functioning. This change serves several purposes. It responds to the commenters' concern that proposed 12.00D gave an inappropriate amount of discretion to the adjudicators who do not have the expertise of the test administrators by permitting only the individuals who *do* have the expertise of test administrators to make conclusions about IQ scores. However, it also allows our agency's medical and psychological experts to reach different conclusions than those reached by the individual test administrator, when appropriate. This option is important because during our case development, we often receive a more complete picture of a claimant's functioning from a variety of sources of information other than the test administrator(s).

Comment: Some commenters said that the proposed rules were "weak with respect to specifying the standard of practice in psychometric evaluations." The commenters recommended stronger language calling for the use of standardized instruments "with comprehensive and representative norms, for which there is empirical evidence for construct and criterion validity in the demographic and diagnostic groups in which they are used."

Response: We partially adopted the comments. The proposed rules removed the detailed information on psychological testing in prior 12.00D5 through D9 because, as we explained in the NPRM, most of the information is educational and procedural, and tests are regularly revised and updated. However, in these final rules, we added section 12.00H2 to explain the evidence that we require from standardized intelligence testing under final listing 12.05B. In this section, we included the information from prior 12.00D5 and D6 that applies to intelligence tests. In addition, we expect to provide formal and accessible guidance to adjudicators about intelligence testing and final listings 12.05 and 112.05. We discuss why we do not require standardized assessments of adaptive behavior in our response to another comment below.

Comment: A commenter stated that sometimes people with intellectual disability are not properly identified because they "appear more functional than they are," particularly in work settings. The commenter requested that we consider "on the job difficulties" as part of our analysis of a person's adaptive functioning.

Response: We adopted the comment. As discussed above, we added final 12.00H to expand the guidance to adjudicators about how to evaluate a cognitive impairment under listing 12.05. That section includes a subsection about how we consider a claimant's work activity when we evaluate his or her functional abilities. We state that we will consider all factors involved in a claimant's work history, including whether the work was in a supported setting, whether the claimant required additional supervision, how much time it took the claimant to learn the job duties, and the reason the work ended, if applicable.

Comment: The spokespersons for several organizations recommended that we further clarify how adjudicators will evaluate deficits in adaptive functioning. One commenter suggested that we mention standardized tests as a valuable source of evidence. Another commenter recommended that we evaluate and rate deficits in adaptive functioning in terms of scores that are two or more standard deviations below the mean. The commenter asserted that this measurement would be "consistent with the drafted criteria for Intellectual Disability under DSM–5 and would better reflect the desired increase in focus on adaptive behaviors consistent with current trends set by the American Association on Intellectual and Developmental Disabilities [AAIDD]." The commenter also thought that use of standard scores to evaluate adaptive functioning would simplify listing 12.05.

Response: We adopted the suggestion to provide more clarification about how adjudicators will evaluate deficits in adaptive functioning. As we discussed earlier in this preamble, the reorganized criteria in final listings 12.05A and 12.05B describe the evidence that we require to establish significant deficits in adaptive functioning for each listing. Final 12.05A2 requires dependence upon others for personal needs (for example, toileting, eating, dressing, or bathing) to establish significant deficits in adaptive functioning. Alternatively, final 12.05B2 requires extreme limitation of one, or marked limitation of two, of the "paragraph B" areas of mental functioning. The revised organization of final listings 12.05A and 12.05B enabled us to provide these specific, concrete criteria. We then added final section 12.00H3 to provide more guidance about adaptive functioning generally, and adaptive functioning in specific situations, such as when a claimant with intellectual disability has a work history. Furthermore, we included "standardized tests of adaptive functioning" as an example of evidence we may receive and consider about a claimant's adaptive functioning in final 12.00H3b.

We did not adopt the suggestion to evaluate and rate deficits in adaptive functioning in terms of scores that are two or more standard deviations below the mean. We are aware that for the AAIDD, ". . . significant limitations in adaptive behavior are operationally defined as performance that is two standard deviations below the mean of either (a) one of the following three types of adaptive behavior: conceptual, social, or practical, or (b) an overall score on a standardized measure of conceptual, social, and practical skills."[11] The AAIDD also provides guidelines concerning technical standards for adaptive behavior assessment instruments and for selecting an adaptive behavior assessment instrument.

However, the use of standard deviations as a required measure of deficits in adaptive functioning under listing 12.05 is not feasible or necessary in our program. The suggestion is not feasible because inclusion of such criteria in the listing would mean that we would have to require the results of a standardized test of adaptive functioning in every case evaluated under that listing. Although we can agree with the recommendation in principle, the medical evidence of record for claims that we would evaluate under listing 12.05 do not always contain adaptive functioning test results. Financial constraints within the disability program preclude our purchasing such testing in every case lacking such results.

Additionally, the suggestion is unnecessary because the areas of mental functioning described in the 12.00 "paragraph B" criteria capture both the spirit and intent of the AAIDD's descriptions and understanding of the elements of adaptive functioning. For that reason, as for all other mental disorders, we use the paragraph B areas of mental functioning to evaluate the limitations in a person's adaptive functioning under listing 12.05. We explain in final 12.00H3 that if a person's case record includes the results of a standardized test of adaptive functioning, we will consider the test results along with all other relevant evidence. However, to evaluate and determine the severity of those deficits, we will use the guidelines in final 12.00E, F, and H.

Sections 12.00I and 112.00J—How do we evaluate substance use disorders? (Proposed 12.00H and 112.00H)

Comment: Several commenters requested that we more clearly define the criteria and guidelines for determining the nature and effects of substance use on a person's functional capacity.

Response: This request is outside the scope of the notice of proposed rulemaking, and we did not adopt this comment in these final rules. However, we appreciate the importance of clear guidance for implementing the statutory drug addiction and alcoholism (DAA) policy. Therefore, we published a Social Security Ruling (SSR) titled, "Social Security Ruling, SSR 13–2p.; Titles II and XVI: Evaluating Cases Involving Drug Addiction and Alcoholism (DAA))" on February 20, 2013.[12] We based the SSR on information we obtained from individual medical and legal experts, the Substance Abuse and Mental Health Services Administration in the U.S. Department of Health and Human Services, and our adjudicative experience. The SSR provides detailed guidance for adjudicators at all administrative levels. It consolidates information from our regulations, training materials, and question-and-answer responses to explain our DAA policy.

In cases of alleged mental impairment in which a substance use disorder is involved, we will evaluate the person's mental impairment, as appropriate, under the mental disorder listing for the involved condition (for example, depressive, bipolar and related disorders; schizophrenia spectrum and other psychotic disorders), and according to the guidelines in SSR 13–2p.

Listings 12.05 and 112.05—Intellectual Disorder

Comment: We received many comments on the proposed change in the name of listing 12.05 to "intellectual disability/mental retardation (ID/MR)." Most commenters requested that we use only "intellectual disability," given the adoption of that name in other governmental and non-governmental contexts. Some commenters were satisfied with the combination of terms during a transitional period, given our rationale in the NPRM for using both terms until the public and our adjudicators become accustomed to "intellectual disability" alone. One commenter, acknowledging a minority opinion, argued that we ought not to eliminate use of the prior title at any time. Several other commenters, while favoring the idea of changing the name of the listing, did not endorse the term proposed in the NPRM. Instead, they recommended the term, "intellectual disorder," because use of the word "disability" in the name of a listing would be confusing to claimants and to our adjudicators.

Response: We adopted the last suggestion. After the NPRM published in 2010, Congress passed Public Law 111–256, which changed historically used terms in certain Federal laws to their updated counterparts, such as "intellectual disability" and "an individual with an intellectual disability." The Federal law ordering this change did not apply to titles II and XVI of the Act, and therefore, did not require us to make any changes to our regulations. However, in response to public requests and in the spirit of the new law, we published another NPRM on January 28, 2013 (78 FR 5755). The NPRM proposed to replace the historically used term with "intellectual disability" in our prior listings and in other appropriate sections of our rules. Public comments in response to the 2013 NPRM generally supported the change in terminology, and the proposed change became a final rule on August 1, 2013 (78 FR 46499).

However, we are unlike other Federal agencies that have adopted the new terminology "intellectual disability" because we must comply with a legal definition of the word "disability." As a result, a person who has a cognitive impairment, including intellectual disability, does not have a "disability" within the meaning of the Act until we have determined that the impairment satisfies all of the statutory and regulatory requirements for establishing disability.

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[11] American Association on Intellectual and Developmental Disabilities: *Intellectual Disability: Definition, Classification, and Systems of Supports, 11th Edition,* Washington, DC, 2010, page 43.

[12] See 78 FR 11939. Available at: *https://www.gpo.gov/fdsys/pkg/FR-2013-02-20/pdf/2013-03751.pdf.*

Although we carefully considered all of the comments we received in response to the 2010 NPRM, we ultimately agreed with those commenters who, while favoring the idea of changing the name of the listing, recommended the name "intellectual disorder" for listings 12.05 and 112.05. We agree with their perspective and their recommendation, and we have adopted their proposed name change.

Comment: Some commenters, including the spokesperson for a national organization, recommended that we make changes to listing 12.05. Commenters criticized the listing structure proposed in the NPRM as "inconsistent, redundant and unnecessary." One commenter stated, "the severity of intellectual disability is written into the diagnosis itself." Another commenter criticized proposed listing 12.05B as being both unclear and "not needed." Some commenters said that proposed listing 12.05C is "unnecessary." The commenters recommended that listing 12.05 guide adjudicators on the process of establishing intellectual disability with the assessment of both intellectual functioning and adaptive behaviors.

Response: We adopted the comments. We reorganized the requirements of listing 12.05 to reflect the three diagnostic criteria for intellectual disability from the DSM–5 and the AAIDD. Listing 12.05 now has two paragraphs: 12.05A for claimants whose cognitive limitations prevent them from being able to take a standardized intelligence test and 12.05B for claimants who are able to take a standardized intelligence test. Paragraphs 12.05A and 12.05B each have three criteria that match the diagnostic criteria for intellectual disability and that describe the evidence that we need to satisfy the criteria. A claimant's impairment must satisfy the three criteria in either paragraph 12.05A or 12.05B, not both. We provide additional explanation about the revisions to listing 12.05 later in this preamble.

Comment: Several commenters thought that proposed 12.00B4d would give "excessive and largely unbridled leeway to the adjudicator to override valid test findings." The language they objected to was, "We consider your IQ [intelligence quotient] score to be 'valid' when it is supported by the other evidence, including objective clinical findings, other clinical observations, and evidence of your day-to-day functioning that is consistent with the [intelligence] test score." The commenters said that ". . . the proposed rule seems to create a third prong to establish the diagnosis" of intellectual disability. They identified the third "prong" as "evidence of your day-to-day functioning that is consistent with the test score." The commenters urged us to ensure that adjudicators respect "a valid diagnosis of 'intellectual disability'" made by professionals and not allow adjudicators to dismiss a valid diagnosis.

Other commenters thought that proposed 12.00B4d would allow adjudicators to use "virtually . . . anything as evidence of a level of functioning that is inconsistent with" intellectual disability. An attorney who represents disability claimants indicated that adjudicators cite "high adaptive scores, or virtually anything in the record, as evidence of a level of functioning that is inconsistent" with intellectual disability.

Response: We made several changes in these final rules in response to these comments. First, as we mention in our response to an earlier comment, we revised the criteria in listings 12.05A and 12.05B. The changes clarify that there are three criteria that must be satisfied in order for an impairment to meet one of these listings. The three criteria, restated here, are: 1. significantly subaverage general intellectual functioning, 2. significant deficits in adaptive functioning, and 3. evidence demonstrating or supporting the conclusion that the disorder began prior to age 22. For claimants who are able to take a standardized intelligence test, the listing criteria about daily functioning requires that the claimant's impairment result in significant deficits in adaptive functioning, evidenced by extreme limitation in one, or marked limitation in two, of the four paragraph B areas of mental functioning (see final 12.05B2). This new organization of the listing criteria makes clear that there is no criterion or "prong" requiring "evidence of your day-to-day functioning that is consistent with the [intelligence] test score" to establish disability. We discuss the revisions we made to listing 12.05 in detail in a later section of this preamble.

Second, we removed proposed 12.00B4d, and we added final 12.00H to expand and organize the guidance for documenting and considering evidence under final listing 12.05. In final 12.00H2, we state that we will find standardized intelligence test results usable when a qualified specialist has individually administered the test. We indicate that only qualified specialists, Federal and State agency medical and psychological consultants, and other contracted medical and psychological experts may conclude that an obtained IQ score(s) is not an accurate reflection of a person's general intellectual functioning. The conclusion of the qualified specialist, or medical or psychological consultant or expert, about the accuracy of the obtained IQ score(s) determines whether the person's cognitive impairment satisfies the IQ score criterion.

Third, in response to concerns that an adjudicator might misinterpret information about a person's daily functioning, we included guidance in three sections of the final rules to ensure proper evaluation of that information. In final 12.00D3, which applies to all of the mental disorders listings, we explain how we consider the complete picture of the person's day-to-day functioning, including the kinds, extent, and frequency of help and support received. In final 12.00H3d, which applies to final listing 12.05B, we discuss how we consider evidence that a person engages in commonplace everyday activities when we evaluate his or her adaptive functioning. We state that a person may demonstrate both strengths and deficits in adaptive functioning, and we cite examples of the kinds of commonplace activities that a person might engage in. In final 12.00H3e, which also applies to final listing 12.05B, we discuss how we consider evidence that a person engaged in work when we evaluate his or her adaptive functioning. We describe special circumstances that may have made it possible for the person to work. In these two sections, we explain that we will not assume that doing some commonplace activities or work activity demonstrates that the person's impairment does not satisfy the criteria in 12.05B.

Regarding the request to ensure that adjudicators respect "a valid diagnosis of 'intellectual disability,' " we did not adopt this comment. It has been our experience that there can be considerable variability in the quality of reports of psychological examinations and intelligence testing. Moreover, our mental disorders listings are function-driven, not diagnosis-driven. To address this situation, and for the reasons explained in other sections of the preamble, we believe that the revision to listing 12.05 is a simpler, more effective approach to evaluating intellectual disability. The three elements that define "intellectual disability" are the three criteria in listing 12.05. We do not use the word "diagnosis" in the rules related to the listing.

Comment: The spokesperson for an organization recommended that we change the term "mental incapacity" to "intellectual incapacity" in proposed 12.05A. The commenter suggested this change to be consistent with the reference to "intellectual functioning" later in proposed 12.05A.

Response: We adopted the comment, in part. We removed the term "mental incapacity" from final 12.05A, as suggested. However, as part of the overall reorganization of listing 12.05, we replaced "mental incapacity" with the phrase "significantly subaverage general intellectual functioning." We use this phrase to describe the first criteria in both listings 12.05A and 12.05B because it is a more accurate description of the first element of the medical definition of intellectual disability as defined in the DSM–5 and by the AAIDD, discussed above.

Comment: We received differing public comments regarding the appropriate IQ score we should use for determining whether a person has significantly subaverage general intellectual functioning. Some commenters supported the continued use of the lowest IQ score (such as a part score, or component score) on a test that provides more than one score. Others questioned why we would use a part score rather than the full scale IQ score. The spokesperson for a professional organization noted, "the Full Scale IQ is a widely understood and useful summary measure of intellectual functioning." Another commenter said that use of the lowest part score is inconsistent with other accepted definitions of intellectual disability, including that of the AAIDD and that of the DSM–IV–TR. These definitions call for the use of the full scale IQ score, except in limited circumstances. The commenter also noted that use of a part score could result in an outcome inconsistent with the definition of the disorder, which requires proof of "significantly subaverage *general intellectual functioning* [emphasis in original]." Other commenters questioned why we did not adopt the 2002 recommendation of the National Research Council to generally use the full scale IQ score, and to use certain part scores in limited circumstances.

Response: We partially adopted these comments. We agreed with the reasons provided by the commenters who suggested that we use a full scale IQ score to determine whether a person's cognitive impairment satisfies the criteria in final listings 12.05B and 112.05B. In our experience, full scale IQ scores are the most reliable evidence that a person has intellectual disability and not another impairment that affects cognition.

Additionally, in 2000, we commissioned a report from the National Research Council (NRC) about intellectual disability and determining eligibility for social security benefits, published in 2002.[13] The primary focus of the report was people who have intellectual disability in what was called the "mild" range in the DSM–IV–TR, which means having IQ scores from 50–55 to approximately 70. In its report, the NRC concluded that for purposes of assessing impairment in people with intellectual disability, full scale IQ scores are generally better representations of general intelligence than are part scores because they combine a person's various skills and abilities to better reflect overall cognitive functioning. The NRC further noted that "[t]he intelligence test total score is also the single overall fairest predictor [of general intelligence] for individuals of differing ages, genders, races, and ethnic backgrounds. . . ."

Despite this recommendation, the NRC noted that in some instances when a person obtains a full scale IQ score from 71 through 75, it can be appropriate to use certain part scores (verbal or performance IQ scores) that are 70 or below to establish that the person has significant limitations in general intellectual functioning. We largely adopted this recommendation for final listings 12.05B and 112.05B. We may find that a person's impairment satisfies the criteria in final 12.05B1 and 112.05B1 if the person has either: a full scale IQ score of 70 or below, or a full scale IQ score of 71–75 accompanied by either a verbal or performance IQ score of 70 or below.

Comment: Some commenters recommended that we provide guidance to adjudicators about how to consider the "standard error of measurement" and other similar aspects of IQ testing in this regulation. Several commenters recommended that we "give claimants the benefit of the doubt and include those individuals whose IQ scores place them within the standard error of measurement on standardized tests."

Response: We partially adopted the recommendations. The medical community recognizes measurement error for IQ scores (for example, the standard error of measurement). Test publishers often provide a range of scores around a person's obtained score that may also accurately represent a person's intellectual functioning. Similarly, as discussed above, one of the NRC's recommendations was to consider a range of full scale IQ scores from 71–75 in some instances.

In these final rules, we addressed these aspects of IQ testing by largely adopting the NRC recommendation. We added an alternative option for establishing that a person has significantly subaverage general intellectual functioning in final 12.05B1 and 112.05B1, as described in the response to the previous comment. This alternative enables some people with significantly subaverage general intellectual functioning and full scale IQ scores that fall within a range of 71–75 to satisfy the IQ score requirement in final listings 12.05 and 112.05. Additionally, we expect to provide formal and accessible guidance to adjudicators about intelligence testing and final listings 12.05 and 112.05.

Comment: A commenter recommended that we use IQ scores from the 2008 Wechsler Adult Intelligence Scale, Fourth Edition (WAIS–IV), General Ability Index (GAI) rather than the WAIS–IV full scale IQ score. The commenter asserted that the full scale IQ score can be artificially inflated in the newer Wechsler scale test editions, relative to older Wechsler tests. The commenter said that the fourth edition gives higher weights to subtests within the Working Memory Index (WMI) and Processing Speed Index (PSI). The commenter explained that because of the highly concrete nature of their tasks, the WMI and PSI scores can be relatively higher among intellectually disabled claimants and thus do not reflect deeper learning potential or problem-solving ability. The commenter believes that the GAI is a better summary measure of working memory and processing speed in the calculation of overall intelligence because it does not include WMI and PSI subtests.

Response: We did not adopt the comment. The restructuring of the WAIS and the resulting changes in scoring have raised questions for many people regarding the use of the full scale IQ score and the GAI. We appreciate the commenter's observations about differences between the two scores. However, the full scale IQ score contains more subtests (10) than the GAI (6), and therefore the full scale IQ score has higher and more stable reliability and validity coefficients. Furthermore, the four subtests used for the WMI and PSI were a part of the full scale IQ score calculations in the earlier editions of the WAIS and continue to be included in the full scale IQ score calculation in the WAIS–IV. For these reasons, we do not agree with the recommendation to encourage adjudicators to use the GAI rather than the full scale IQ score as a summary measure of intelligence for listing 12.05.

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[13] National Research Council: *Mental Retardation: Determining Eligibility for Social Security Benefits*, National Academy Press, Washington, DC (2002) (available at: *http://www.nap.edu/catalog/10295/mental-retardation-determining-eligibility-for-social-security-benefits*).

Comment: Some commenters recommended that we add a provision to listings 12.05D and 112.05D to indicate that a person's impairment will satisfy the listing requirements if the impairment results in ''extreme'' limitation of one of the functional criteria categories.

Response: We adopted the comment. As explained earlier in this preamble, the final rules reorganize listings 12.05 and 112.05. Final listings 12.05B and 112.05B include the provision that the commenters recommended.

Listings 12.09 and 112.09—Removed

Comment: Several commenters objected to the proposal to remove prior listing 12.09, substance addiction disorders from our rules. They provided various reasons in support of their position. For example, the spokesperson for an organization asked that we retain the listing to be consistent with the DSM–IV–TR and then-proposed DSM–5, because those publications have a category of impairment for ''Addiction and Related Disorders.'' As another example, some commenters acknowledged that although substance use disorders alone are not grounds for disability in the current regulations, other government agencies, such as the U.S. Department of Health and Human Services, have documented the impact that these disorders have on the health and functioning of disabled people. As a third example, a commenter stated that substance abuse is one of the behavior disorders that can seriously affect functional capacity. That commenter also noted that a large percentage of cases requiring medical expert testimony related to mental disorders involve substance abuse issues.

Response: Although we appreciate the issues raised by the commenters, we did not adopt the recommendation to keep prior listing 12.09. Our current policy regarding how we evaluate claims involving substance use disorders comes from sections 223(d)(2)(C) and 1614(a)(3)(J) of the Act, which state that, ''[a]n individual shall not be considered to be disabled . . . if alcoholism or drug addiction would . . . be a contributing factor material to the Commissioner's determination that the individual is disabled.''[14] Under this provision of the Act, we cannot find that a person is disabled based on his or her substance use disorder alone. Furthermore, if a claimant's substance use is a medically determinable impairment and is *material* to a finding that the claimant is disabled, then we must find that the claimant is not disabled. (See our response to the prior comment that requested that we more clearly define the criteria and guidelines for determining the nature and effects of substance use on a person's functional capacity for more information about our guidance on how we assess of the impact of substance use disorders.)

These final rules remove prior listing 12.09 because we cannot use listing 12.09 alone to meet our definition of disability. In addition, listing 12.09 is a reference listing, which means that it only refers to medical criteria in other listings. As we revise the listings, we are also trying to eliminate reference listings. Finally, listing 12.09 is redundant because we use other listings to evaluate the physical or mental effects of substance use (for example, liver damage, peripheral neuropathy, or dementia). For these reasons, we are removing the listing.

Listing 112.14—Developmental Disorders in Infants and Toddlers

Comment: A commenter requested that we keep the name of prior listing 112.12, ''emotional and developmental disorders'' for listing 112.14 for infants and toddlers. The commenter agreed with our decision to have a listing encompassing the period of birth to age 3 because this age group is better viewed as a continuum rather than as two distinct age groups, but disagreed with our removing the words, ''emotional and,'' and naming the listing only, ''Developmental Disorders.'' The commenter explained that, because ''many [mental health] disorders are apparent prior to age three . . . and are distinct from developmental disorders . . ., eliminating emotional disorders will delay determination of eligibility for certain children for years.''

Response: We did not adopt the comment. We appreciate that the inclusion of ''emotional'' in the name of prior listing 112.12 was an effective way to emphasize that children, even in the first year of life, can manifest emotional disturbance—a condition that has been identified, described, and increasingly studied by various early childhood authorities in the past 25 years. However, the term, ''developmental disorders,'' in final listing 112.14 is sufficiently broad to encompass all of the myriad ways in which an infant or toddler can present delays or deficits in typical early childhood development, including emotional disturbance.

Comment: The spokesperson for an organization suggested that we replace the proposed name of listing 112.14 with ''neurodevelopmental delay'' for children birth to 3 years.

Response: We did not adopt the comment. We appreciate the basis for the recommendation of ''neurodevelopmental delay'' as the name for listing 112.14 because developmental problems in very young children are often attributable to known neurological factors. However, the DSM–5 uses a very similar term, ''neurodevelopmental disorders,'' as the overall diagnostic category comprising disorders usually diagnosed in infancy, childhood, and adolescence. As a result, we are adopting the term ''neurodevelopmental disorders'' as the new title for listings 12.11 and 112.11. To avoid confusion, we are keeping the titles of listings 112.11 and 112.14 as different as possible.

Comment: The spokesperson for an organization recommended that we consider including fetal alcohol spectrum disorders as a ''potential listing'' in proposed listing 112.14, developmental disorders of infants and toddlers.

Response: We did not adopt the comment. Each listing does not include separate listings within it. Final 112.00B11b cites examples of disorders that we evaluate under this listing. However, we make clear that the list of examples is not all-inclusive. Fetal alcohol spectrum disorders (FASD) are known to produce the kinds of delay or deficit in the development of age-appropriate skills involving motor planning and control, learning, relating and communicating, and self-regulating that we address in listing 112.14. As with any disorder, the effects and severity of FASD can be highly variable across individuals. If an infant or toddler manifests a medically determinable developmental disorder of the severity described in listing 112.14, we will find the child disabled.

Comment: Some commenters recommended that we use age-related percentiles rather than fractions to assess developmental disorders in younger children. The commenters remarked that proposed listing 112.14 provided for the use of non-standardized measures for assessing developmental disorders in younger children, and that such a practice is appropriate if well-developed measures with age-standardized scores are not available. However, the commenters found our determination of impairment severity based on performance that is "more than one-half, but not more than two-thirds of chronological age" problematic given that standards based on fractions of what would be expected for chronological age have different meanings for children of different ages. The commenters illustrated the concern with the observations that performance of half of expected age in a 4-month-old infant represents a delay of only 2 months, while half of expected age for a 4-year-old child is a much more severe delay.

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[14] 42 U.S.C. 432(d)(2)(C), 1382c(a)(3)(J).

Response: We did not adopt the comment for two reasons. First, proposed section 112.00I4 included the references to fractions that the commenters mention. However, proposed 112.00I4 restated our guidance about fractions from § 416.926a(e). Rather than repeat guidance that we provide elsewhere in our regulations, in these final rules, we removed those provisions from 112.00I. Instead, we refer users to §§ 416.925(b)(2)(ii) and 416.926a(e) to find that information. As a result, the final rules no longer include the language the commenter mentions.

However, § 416.926a(e) also uses language very similar to, "more than one-half, but not more than two-thirds of chronological age." We have used these fractions, and other similar ones, to determine disability in children since we published updated childhood disability regulations in 1991 (56 FR 5559). We use the fractions as an approximation when we do not have standardized test results in the case record. Our adjudicators are now very familiar with using these fractions in our program, and they find that the fractions are an accurate alternative and helpful when the case record does not have standardized test results.

Second, with respect to the illustration involving a 4-year-old child, according to § 416.926a(e), we use a fraction to assess a child's functioning only up to age 3, and only in the absence of standardized test results. Therefore, we do not use fractions to assess the functioning of 4-year-old children.

Comment: A commenter recommended that we not defer disability determination for pre-term infants until attainment of corrected chronological age of 6 months. The commenter observed that adjustment of chronological age to account for a period of gestational prematurity is an accepted practice until a chronological age of 2 years, after which such adjustments are often not made. The commenter states, "a problem in using corrected age is that it may delay services for children who need them most. It would thus be critical not to defer disability determination in these cases, as this could result in delay in services to children with severe neurodevelopmental disorders. . . . While it is clear that the proposed rule changes specify that adjudication 'may' be deferred, rather than required, it would be important to emphasize in the rule changes that deferral of determination of age-expected development not be the default rule."

Response: We did not adopt the comment. We do not believe the final rule in 112.00I5 includes guidance that adjudicators could interpret as a "default" action. In 112.00I5a and b, we explain that we will defer determination until an infant is at least 6 months old (chronological or corrected chronological age) *if* the evidence is insufficient to make a determination. Similarly, adjudicators have the option to defer determination beyond a child's attainment of 6 months, *if* the available evidence warrants deferral. However, 112.00I5c states that we will not defer the determination if we have sufficient evidence to support a determination that a child is disabled under final listing 112.14 or any other listing.

We also appreciate that whether a premature infant's chronological age should be corrected to adjust for prematurity can be a significant factor in decisions regarding the provision of intervention services. However, in determining whether the same infant meets our statutory definition of disability, the sole basis for our determination is how the infant's development compares to established developmental milestones, based on chronological age ranges. It is necessary, then, that we correct chronological age to adjust for prematurity in order to make a determination that is fair to the infant.

Comment: A commenter recommended that we not defer disability determination for children born at extreme risk for ongoing developmental problems. This commenter said that "it is unclear that deferring determination of disability . . . is justifiable in cases of more extreme disability. There would seem to be little reason to defer assessment of a child born at extreme risk for ongoing developmental problems, such as those with perinatal brain insults, including hypoxic ischemic encephalopathy with severe deficits in early neurodevelopment, extreme prematurity with severe early neurologic impairments and perinatal strokes."

Response: We did not adopt this comment. We acknowledge that some government programs establish eligibility for services based on a child's "at risk" status. However, the Act and our regulations do not permit us to evaluate "risk" factors as the commenter describes.[15] We consider only the effects of medically determinable impairments established by "medical evidence consisting of signs, symptoms, and laboratory findings" (see §§ 416.908 and 416.928). We do not require that the child's treating providers identify a specific diagnosis to describe the child's medical situation. However, there must be evidence of a medically determinable impairment that causes limitations in the child's functioning. Under our rules, we consider certain medical situations, such as low birth weight in infants and failure to thrive in children, as medically determinable impairments. These impairments may cause developmental delays or physical effects that meet our definition of childhood disability (see, for example, listings 100.04 and 100.05).

With respect to infants with perinatal brain insults, such as hypoxic ischemic encephalopathy and perinatal strokes, we cannot know immediately following the insult what the outcome will be with respect to the infant's developmental course. The provision for deferring adjudication until the infant is at least 6 months of age allows for the necessary documentation of the child's developmental patterns and functioning over time. However, we do not defer determinations when we have sufficient evidence that a child's impairment causes marked and severe functional limitations and can be expected to cause death, or has lasted or can be expected to last for a continuous period of not less than 12 months (see § 416.906).

Comment: The spokesperson for an organization stated that although the four paragraph B criteria for listing 112.14 reflect age-appropriate expectations and activities, reliably measuring the criteria can be difficult. The commenter recommended that we allow "temporary access to [supplemental security income (SSI)] benefits, pending repeat and confirmatory testing of a child's disability severity to meet SSI standards."

Response: This comment is outside the scope of this rulemaking, therefore we did not make any changes in these final rules in response to it. Although our program does not provide for "temporary access to SSI benefits," we have rules providing for "presumptive disability" payments to claimants applying for SSI benefits. If the evidence available reflects a high degree of probability that the claimant meets our definition of disability, we may find initially that a claimant is "presumptively disabled." This initial finding means that the claimant may receive benefits for up to 6 months before we make a formal determination about whether the claimant is disabled (see §§ 416.931–416.934).

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[15] For more information about why we do not evaluate risk factors, see the preamble to the 1991 final rule with request for comments on determining disability for a child under age 18 (56 FR 5534, 5551).

Comment: A commenter advised us to identify the standardized developmental test instruments that the evidence should include so that adjudicators recognize "current validated screening modalities and do not accept antiquated assessment tools or approaches."

Response: We did not adopt the comment. Although there are many developmental assessment instruments available from several publishers, we do not name individual tests in our regulations because we do not endorse proprietary (copyrighted) instruments. Additionally, tests are regularly developed or updated, and it would be impractical to attempt to maintain a current list of instruments in a regulation.

Summary of Revisions We Made in the Final Rules

As we described in our responses to the public comments, we are making changes to some of the proposals in the NPRM because of public comments we received. Although we explain all of those changes in detail later in this preamble, we summarized some of the more significant changes here. These changes include:

- Updating the titles of most of the listings;
- Keeping the structure of the "paragraph A" criteria from our prior rules in all of the listings (except for 12.05 and 112.05), and updating the paragraph A criteria;
- Renaming the titles of paragraph B1 (understand, remember, or apply information) and B3 (concentrate, persist, or maintain pace) to be linked by "or" rather than "and";
- Removing all references to using standardized test scores for rating degrees of functional limitations for adults (except for listing 12.05);
- Indicating that the greatest degree of limitation in any part of a paragraph B1, B3, or B4 area of mental functioning will be the degree of limitation for that whole area of functioning;
- Retaining the 5-point rating scale that we used in our prior rules for rating degrees of functional limitations in adults;
- Reorganizing the listing criteria in listings 12.05 and 112.05, intellectual disorder, to reflect the three diagnostic criteria for intellectual disability; and
- Creating new listings, 12.15 and 112.15, trauma- and stressor-related disorders, to reflect the updates in medical understanding reflected in the DSM–5.

Explanation of Listing 12.05, Intellectual Disorder

Final listing 12.05 includes important changes that we explain here. We use listing 12.05 to evaluate claims involving intellectual disability. In the NPRM, we proposed mostly minor revisions to listing 12.05. However, some of the public comments that we received about this listing recommended that we substantively reorganize and change the listing criteria. The commenters criticized the listing structure that we proposed as "inconsistent, redundant and unnecessary." One commenter observed, "the severity of intellectual disability is written into the diagnosis itself." The commenters recommended that we simplify the structure and the criteria for listing 12.05 so the listing would guide adjudicators through the process of identifying claimants who have intellectual disability.

In response to these comments, we revised the criteria for listing 12.05. We believe the revisions will continue to accurately and reliably identify claimants who have marked or extreme functional limitations due to intellectual disability. We also believe that the final listing will be clearer to adjudicators and the public. Furthermore, new listing 12.11 will identify claimants with cognitive impairments that result in marked or extreme functional limitations but do not satisfy the definition of intellectual disability. Our reasoning and explanation for those changes is below.

Intellectual Disability

"Intellectual disability" is a diagnosis used by the medical community to identify and describe a certain type and degree of cognitive impairment. The American Psychiatric Association, the American Psychological Association, and the AAIDD are three leading experts within the medical community about what "intellectual disability" is. Those three organizations largely agree about what the three diagnostic criteria, or the three elements, are for intellectual disability. Those three elements, restated here, are: Significant limitations in general intellectual functioning, significant deficits in adaptive functioning, and evidence that the disorder began during the developmental period.

Intellectual Disability Policies Proposed in the NPRM

In the NPRM, we proposed to remove the capsule definitions in all of the prior mental disorders listings, including listing 12.05. Like prior listing 12.05, the version of listing 12.05 proposed in the NPRM had four paragraphs, paragraphs A–D. A person's impairment would meet the listing if it satisfied the criteria in any one of the four paragraphs. As in prior listing 12.05, we proposed to use paragraph A to evaluate claimants whose cognitive impairment prevented them from taking a standardized intelligence test. We proposed to use paragraph B to evaluate claimants who had an IQ score of 59 or lower. We proposed to use paragraph C to evaluate claimants with an IQ score of 60 through 70 with another severe physical or mental impairment. We proposed to use paragraph D to evaluate claimants with an IQ score of 60 through 70 and marked degree of limitation in two of the four proposed areas of mental functioning that were typically included in "paragraph B" of the other mental disorders listings.

Although proposed listing 12.05 did not have a capsule definition like prior listing 12.05, the proposed listing required that a claimant have significantly subaverage general intellectual functioning, deficits in adaptive functioning, and evidence that the disorder initially manifested during the developmental period. The beginning of each lettered paragraph required that a claimant have intellectual disability "as defined in [proposed] 12.00B4" before stating the listing criteria specific to that paragraph. Proposed section 12.00B4a stated, "This disorder is defined by significantly subaverage general intellectual functioning with significant deficits in adaptive functioning initially manifested before age 22." Therefore, the version of listing 12.05 proposed in the NPRM was similar to prior listing 12.05, but it did not include a capsule definition, and it moved the three elements of the medical definition of intellectual disability into the introductory text.

Intellectual Disability in Final Listing 12.05

However, the public comments that we received in response to the NPRM, as described above, made clear to us that the reorganized criteria that we proposed in the NPRM was still insufficient. In response to these comments, we reorganized the listing criteria in these final rules to reflect the three elements of the medical definition of intellectual disability.

Final listing 12.05 does not include a capsule definition. The listing has only two paragraphs, and we will allow a claim under the listing when the criteria in either paragraph are satisfied. Each paragraph contains the three elements of the medical definition of intellectual disability. Therefore, the listing is now very similar to the DSM–5 and AAIDD definitions for intellectual disability.

We will use final listing 12.05A to evaluate the claims of people whose cognitive impairment prevent them from taking a standardized intelligence test that would measure their general intellectual functioning. Listing 12.05A has three subparagraphs; there is one subparagraph for each element of the medical definition of intellectual disability. The first subparagraph requires that a claimant lack the cognitive ability to participate in standardized testing of intellectual functioning. Stated differently, if a claimant is not able to take an IQ test, this is sufficient evidence that the claimant has "significantly subaverage general intellectual functioning" as required by the listing.

The second subparagraph requires that a claimant be dependent on others to care for basic personal needs. If a claimant relies on others for such basic tasks, this is sufficient evidence that a claimant has "significant deficits in adaptive functioning" as required by the listing.

The last subparagraph requires evidence that demonstrates or supports the conclusion that the disorder began prior to age 22. For our program purposes, we use age 22 as the benchmark to establish that the disorder began during the developmental period.[16] If a claimant's impairment satisfies the requirements in all three subparagraphs, we will find that the claimant's impairment meets the criteria for listing 12.05A.

We will use final listing 12.05B to evaluate the claims of people who are able to take a standardized intelligence test. Like final listing 12.05A, final listing 12.05B has three subparagraphs; there is one subparagraph for each element of the medical definition of intellectual disability. The first subparagraph requires a claimant to have obtained either: A full scale IQ score of 70 or below, or a full scale IQ score of 71 through 75 accompanied by a verbal or performance IQ score of 70 or below. Stated differently, if a claimant's IQ scores meet either of these requirements, there is sufficient evidence that the claimant has "significantly subaverage general intellectual functioning" as required by the listing.

The second sub-paragraph requires that a claimant have extreme limitation of one, or marked limitation of two, of the four "paragraph B" areas of mental functioning (see 12.00E1, 2, 3, and 4). We use the same paragraph B criteria and severity ratings to evaluate a person's current adaptive functioning under listing 12.05 that we use to evaluate the functioning of a person using all of the other mental disorders listings in this body system. We use the paragraph B areas of mental functioning to evaluate a person's abilities to acquire and use conceptual, social, and practical skills.[17] If a claimant has "extreme" limitation of one, or "marked" limitation of two, of the paragraph B criteria, this is sufficient evidence that a claimant has "significant deficits in adaptive functioning" as required by the listing.

The last sub-paragraph requires evidence that demonstrates or supports the conclusion that the disorder began prior to age 22. If a claimant's impairment satisfies the requirements in all three sub-paragraphs, we will find that the claimant's impairment meets the criteria for listing 12.05B.

The revised criteria in final listings 12.05A and B respond to the public comments that suggested that we simplify the listing structure by guiding adjudicators through the process of identifying claimants who have intellectual disability. Importantly, and as noted above, the mental disorders listings are function-driven, not diagnosis-driven, and the final listing criteria reflect this approach.

The Role of Listing 12.11

Although prior listing 12.05 included a capsule definition that was very similar to the medical definition of intellectual disability, the capsule definition did not indicate how significant the claimant's subaverage general intellectual functioning and deficits in adaptive functioning had to be. For example, other mental impairments, such as specific learning disability and borderline intellectual functioning, can involve subaverage general intellectual functioning and deficits in adaptive functioning, as well as evidence that the disorder initially manifested during the developmental period. However, claimants with impairments such as specific learning disability and borderline intellectual functioning do not have the same nature or degree of subaverage intellectual functioning and deficits in adaptive functioning as people with intellectual disability.

The reorganization of listing 12.05 will mean that cognitive impairments other than intellectual disability will not meet the listing criteria for 12.05. We will use final listing 12.11, neurodevelopmental disorders, to evaluate these impairments. Section 12.00B9, which is the section of the introductory text that describes this listing, explains that we evaluate impairments such as specific learning disorder and borderline intellectual functioning under listing 12.11. This listing furthers our goal to identify claimants with disabling impairments accurately, reliably, and as early in the sequential evaluation process as possible.

Other Significant Revisions Relating to Listing 12.05

We made three other changes relating to listing 12.05 in response to public comments we received. First, as explained earlier in the preamble, we changed the title of the listing to "intellectual disorder." Second, we changed our rules about standardized intelligence test results. Under the final rules, we use a full scale IQ score, or a combination of a full scale IQ score with either a verbal or performance IQ score, to determine if a claimant's disorder satisfies the criteria in listing 12.05. Commenters suggested that we make these two changes, and we agreed with them.

Third, the nature and extent of the comments we received about listing 12.05 indicated that we needed to provide more guidance to adjudicators at the regulatory level about how to apply the listing criteria. Therefore, we added final 12.00H to the introductory text to consolidate and clarify the guidance for listing 12.05.

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[16] Our use of age 22 in our program has a basis in clinical practice. Historically, the American Psychological Association used age 22 to identify people with "intellectual disability" (Jacobson, John W., and James A. Mulick, eds., *Manual of Diagnosis and Professional Practice in Mental Retardation,* American Psychological Association, Washington, DC (1996)) Today, in the disability insurance program, we use age 22 to identify claimants who may be eligible for benefits on the earnings record of an insured person who is entitled to old-age or disability benefits or who has died (20 CFR 404.350(a)). For these reasons, we continue to use age 22 as the benchmark to establish that intellectual disability began during the developmental period.

[17] In its definitions of "intellectual disability" and discussions of adaptive behavior, the AAIDD refers to "conceptual, social, and practical skills" (*Intellectual Disability: Definition, Classification, and Systems of Supports, 11th Edition,* Chapter 5); the DSM–5 refers to "conceptual, social, and practical domains." (American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, 33–41).

Final 12.00—Introductory Text to the Adult Mental Disorders Listings

The following is a description of the content and changes in each section of Part A, the adult mental disorders listings.

Final 12.00A: How are the listings for mental disorders arranged, and what do they require?

Final 12.00A names the mental disorders listings, and it describes how we organized the listing criteria into either two or three lettered paragraphs for all listings (except 12.05). We explain that each lettered paragraph contains a specific type of listing criteria, and we state what criteria must be satisfied in order for us to find that a person's impairment meets the listing. This section also explains how we organized the criteria in final listing 12.05 differently from the other listings.

In these final rules, we changed the title of final 12.00A from, "What are the listings, and what do they require?" to, "How are the listings for mental disorders arranged, and what do they require?" for clarity.

Final 12.00A2a reflects a change we made to the paragraph A criteria in these final rules. In the NPRM, we proposed that the paragraph A criteria would require a claimant to show that he or she had a medically determinable mental disorder in the listing category (for all listings except 12.05). However, these final rules keep paragraph A criteria in each listing that are similar to the criteria in our prior rules and include a list of medical criteria that must be present in a person's medical record. We made this change in response to a public comment raising concern that the paragraph A criteria in our prior rules served an important function by providing a basis for comparing and assessing the severity of different mental disorders. The commenter urged us to reconsider "elimination" of the paragraph A criteria. We summarized the comment and explained our reasons for adopting it earlier in this preamble. As a result, final 12.00A2 explains that paragraph A of each listing (except 12.05) includes the medical criteria that must be present in a person's medical evidence.

Final 12.00A2 also includes a change we made to the paragraph C criteria in these final rules. In the NPRM, we proposed to include paragraph C criteria in all listings (except 12.05). However, these final rules keep paragraph C criteria only in the final listings that correspond closely to the prior listings that included paragraph C criteria (final listings 12.02, 12.03, 12.04, 12.06, and 12.15). We made this change because our medical and psychological experts, and our adjudicative experience, indicate to us that the unique medical situation that we identify with the paragraph C criteria typically does not apply to the other disorders we evaluate under the remaining listings. As a result, final 12.00A2c explains that paragraph C of listings 12.02, 12.03, 12.04, 12.06, and 12.15 provides the criteria we use to evaluate "serious and persistent mental disorders."

Final 12.00A3 reflects the way that these final rules revise the listing criteria for 12.05. We explain the changes to listing 12.05 and our reasons for making them earlier in this preamble.

Final 12.00B: Which mental disorders do we evaluate under each listing category?

In these final rules, we changed the title of final 12.00B from, "How do we describe the mental disorders listing categories?" to, "Which mental disorders do we evaluate under each listing category?" for clarity. We removed the introductory paragraph in proposed 12.00B because the information was only descriptive or included elsewhere in the introductory text.

Final 12.00B contains numbered sections that correspond to each listing. The numbered sections provide information about the types of mental disorders we evaluate under each listing. For example, final 12.00B1 corresponds to listing 12.02 and provides information about neurocognitive disorders.

In final 12.00B, each numbered section contains either two or three lettered paragraphs. The first lettered paragraph provides a description of the mental disorders included in each listing category, followed by examples of symptoms and signs commonly associated with those disorders. The second paragraph provides examples of disorders we evaluate under each listing. We updated these paragraphs with revised medical terms from the DSM–5. In sections that have a third paragraph, this paragraph lists examples of mental disorders that we do not evaluate under each listing.

In final 12.00B4, which discusses listing 12.05, intellectual disorder, we removed proposed paragraphs 12.00B4c and B4d. These paragraphs discussed our requirements for documentation and standardized intelligence testing. We included this guidance in final 12.00H, a new section that provides additional information about how to apply listing 12.05. We also removed proposed 12.00B4e from these final rules. That paragraph explained proposed listing 12.05C, and these final rules do not include a listing 12.05C, as we explained earlier in this preamble.

We added final 12.00B11 to provide information about the types of mental disorders we evaluate under new listing 12.15, trauma- and stressor-related disorders.

Final 12.00C (Proposed 12.00G): What evidence do we need to evaluate your mental disorder?

Final 12.00C describes the types of evidence that we need to evaluate a person's mental disorder. In these final rules, we moved this discussion from proposed 12.00G to final 12.00C to present the information earlier in the introductory text. This reorganization allows us to explain the evidence we need (in final 12.00C) and how we consider the supports a person receives (in final 12.00D) before we explain how we evaluate a person's mental disorder using the paragraph B criteria (in final 12.00E and final 12.00F).

In final 12.00C2, we discuss and list examples of evidence from medical sources. We removed psychosocial supports or highly structured settings from the list (proposed 12.00C2k) because they are not examples of medical evidence, and because final 12.00D is devoted to those topics. We added psychiatric and psychological rating scales and measures of adaptive functioning to the list, and we removed the brief discussion about these topics from proposed 12.00G5.

In final 12.00C3, we discuss non-medical sources of evidence, such as the claimant and people who are familiar with the claimant. We clarified that we will ask third parties for information about a claimant's impairments, but we must have the claimant's permission to do so. In response to public comments, we added social workers, shelter staff, and other community support and outreach workers to the list of examples of sources of evidence.

In final 12.00C5, we explain how longitudinal evidence can help us learn how a person functions over time, and how we evaluate impairments when there is no longitudinal evidence. We moved the discussion about how we evaluate exacerbations and remissions of mental disorders from proposed 12.00G6a to final 12.00F4 because final 12.00F provides information about how we evaluate a person's mental disorder, and the discussion of exacerbations and remissions of mental disorders is most appropriate in that section. In response to public comments, we added case managers, community support staff, and outreach workers as examples of non-medical sources of longitudinal evidence.

Final 12.00C5c is a new section that provides additional guidance about how we will evaluate a person's mental disorder when there is no longitudinal evidence. In partial response to public comments recommending that we recognize the unique circumstances of people who are experiencing homelessness, we included chronic homelessness as an example of a situation that may make it difficult to obtain longitudinal medical evidence.

In final 12.00C6, we added more information about how we use evidence of a person's functioning in unfamiliar or supportive situations, and we removed the paragraphs that discussed the effects of work-related stress.

Final 12.00D (Proposed 12.00F): How do we consider psychosocial supports, structured settings, living arrangements, and treatment?

Final 12.00D describes how we consider the effects of psychosocial supports, structured settings, living arrangements, and treatment on a person's functioning. In these final rules, we moved this discussion from proposed 12.00F to final 12.00D to present the information earlier in the introductory text.

In final 12.00D1, we explain how psychosocial supports and highly structured settings may help a person function. We added "living arrangements" and "assistance from your family or others" to this discussion for clarity. In response to public comments, we clarified that the list of examples of psychosocial supports and highly structured settings includes only "some" examples of supports that a person "may" receive. We added this language to indicate that the list of supports does not include all of the possible supports that we consider. We simplified the list of examples of supports and settings by combining the examples that illustrate similar situations. In response to public comments, we added comprehensive "24/7" mental health services, also known as "wrap-around" services, to the list of examples. Also in response to public comments, we added an example of receiving assistance from mental health workers who help the person meet physical needs and who may assist in dealings with government or social services.

We added a new section, final 12.00D2, to explain how we consider different levels of support and structure in psychosocial rehabilitation programs. Based on our adjudicative experience, we realized that we needed to provide further guidance about how to evaluate the extent of a person's participation and what that tells us about the effects of the person's mental disorder and current functioning.

We added another new section, final 12.00D3, in response to public comments expressing concern about how we consider a person's strengths and deficits in his or her daily functioning. Final 12.00D3 explains that we acknowledge that a person may demonstrate both strengths and deficits, and we will consider the complete picture of a person's daily functioning when we evaluate whether that person is able to use his or her areas of mental functioning in a work setting.

Final 12.00E (Proposed 12.00C): What are the paragraph B criteria?

Final 12.00E defines and describes the four paragraph B criteria, which represent the areas of mental functioning a person uses in a work setting. Final 12.00E has four numbered paragraphs. There is one paragraph for each paragraph B criterion. For example, final 12.00E1 contains the definition and description for paragraph B criterion B1, understand, remember, or apply information.

In these final rules, we moved the discussion of the paragraph B criteria from proposed 12.00C to final 12.00E. We removed the introductory paragraph in proposed 12.00E because the information was only descriptive or included elsewhere in the introductory text.

We expanded the definitions of each paragraph B criterion, and we added more examples of how a person uses his or her areas of mental functioning in the workplace. We made these changes in response to public comments we received suggesting that we should be more specific about each of the areas of mental functioning in the context of a work setting. We discuss these public comments and our responses to them earlier in this preamble. In final 12.00E4 where we define and describe the paragraph B4 criterion, after we revised the definition and examples in response to the public comments, we changed the title of this criterion to include the word "adapt" to reflect the abilities and behaviors that we consider more accurately and completely. We also added a statement at the end of each paragraph clarifying that the examples illustrate the nature of the areas of mental functioning, and we do not require documentation of all of the examples.

We changed the title of paragraph B1 from "understand, remember, and apply information" to "understand, remember, or apply information." We changed the title of paragraph B3 from "concentrate, persist, and maintain pace" to "concentrate, persist, or maintain pace." We made this change to link the parts in the title with the word "or" rather than "and" in response to several public comments that we received. The commenters were concerned that people could misinterpret the titles as proposed in the NPRM as a change from our prior policy that would set a higher standard for a person's mental disorder to satisfy those criteria. We adopted the comment, and we explain our reasons earlier in this preamble.

Final 12.00F (Proposed 12.00D): How do we use the paragraph B criteria to evaluate your mental disorder?

Final 12.00F explains how we use the paragraph B criteria and a rating scale to evaluate a person's mental disorder. In these final rules, we moved this guidance from proposed 12.00D to final 12.00F. We also made several significant changes to this section because of public comments we received. We explain these changes below.

In final 12.00F1, we introduce the concept of using a rating scale. A public commenter requested that we explain how adjudicators assess limitations in cases where psychosocial supports and highly structured settings are present. In partial response to this comment, we added an explanation that we will consider the nature of the difficulty the person would have, whether the person could function without extra help, and whether the person would require special conditions with regard to activities or other people.

In final 12.00F2, we explain that we use a five-point rating scale consisting of none, mild, moderate, marked, and extreme to assess the degrees of limitation an adult has using his or her areas of mental functioning. Several public commenters objected to our proposal in the NPRM to use only the terms "marked" and "extreme" to assess an adult's limitations. The commenters advised us that continuing our use of the 5-point rating scale from our prior rules would help "anchor" the standards of "marked" and "extreme." We adopted the suggestion to keep our five-point rating scale in these final rules. We discuss these public comments and our responses earlier in this preamble.

Also in final 12.00F2, we provide definitions for each of the five points of the scale. The definitions are consistent with how our adjudicators have understood and used the rating scale since we first introduced it in 1985. As we explain earlier in this preamble, we provide these definitions to respond, in part, to the significant public comments we received that objected to the descriptions of "marked" and "extreme" that we proposed in the NPRM. In the NPRM, we proposed to describe "marked" and "extreme" as equivalent to scores that are a certain number of standard deviations below the mean on individually administered standardized tests. However, in light of the objections raised in the majority of the public comments, we did not adopt those definitions in these final rules.

Also in response to those public comments, we did not make final most of the rules we proposed in 12.00D4 about how we would consider test results when we assessed a person's functional limitations. In these final rules, we moved and changed the guidance about professional interpretation of test results to final 12.00H2d because final 12.00H provides additional information about the criteria in listing 12.05, and listing 12.05B is the only listing that requires standardized test results.

In final 12.00F3, we discuss how we rate the severity of limitations resulting from a mental disorder. In final 12.00F3a, we explain that when rating a person's impairment-related limitations, we use all relevant evidence in the case record. We received public comments raising concern that adjudicators might misconstrue a clinician's use of the term "mild" or "moderate" in diagnosing the stage of a person's mental disorder as a description of the person's level of functioning with respect to the paragraph B criteria. In response to this concern, we added language to final 12.00F3a explaining that although the medical evidence may include descriptors regarding the diagnostic stage or level of a disorder, such as "mild" or "moderate," these terms will not always be the same as the degree of limitation in a paragraph B area of mental functioning.

Final 12.00F3b and F3c are new sections that explain how we consider evidence about and assess a person's ability to use his or her areas of mental functioning in daily functioning and in work settings. Final 12.00F3d and F3e incorporate the proposed sections 12.00D1c and D1d, which provide additional guidance concerning overall effect of limitations and effects of support, supervision, and structure on functioning.

We added a new section, final 12.00F3f, in response to public comments asking that we clearly explain how we will rate the limitation of the individual parts of paragraphs B1, B3 and B4. As requested, we explain that the greatest degree of limitation in any part of a paragraph B1, B3 or B4 area of mental functioning will be the degree of limitation for that whole area of functioning.

Final 12.00F4 incorporates proposed section 12.00G6 and describes how we evaluate mental disorders involving exacerbations and remissions. In response to a public comment, we added an explanation that we will consider whether a person can use the affected area of mental functioning on a regular and continuing basis (8 hours a day, 5 days a week, or an equivalent work schedule).

Final 12.00G (Proposed 12.00E): What are the paragraph C criteria, and how do we use them to evaluate your mental disorder?

Final 12.00G defines and describes the paragraph C criteria, which are an alternative to the paragraph B criteria under listings 12.02, 12.03, 12.04, 12.06, and 12.15. In these final rules, we moved the discussion of the paragraph C criteria from proposed 12.00E to final 12.00G. We retained the two-year documentation requirement from our prior rules in these final rules to ensure that the disorders evaluated using these criteria are "serious and persistent."

In final 12.00G2b, we provide more information about the requirement that continuing treatment, psychosocial supports, or structured settings diminish the symptoms and signs of a person's mental disorder. We clarify that a claimant must rely, on an ongoing basis, upon medical treatment, mental health therapy, psychosocial supports, or a highly structured setting, to diminish the symptoms and signs of his or her mental disorder. As we discuss earlier in this preamble, a public commenter raised concern that many people with mental disorders lack awareness about their mental disorders and therefore refuse treatment. To respond to this comment, we added language in final 12.00G2b to explain how we will consider a claimant's inconsistent treatment or lack of compliance when we determine whether the claimant relies upon "ongoing" medical treatment as this section requires.

Final 12.00H: How do we document and evaluate intellectual disorder under 12.05?

Final 12.00H is a new section that brings together the rules pertaining to listing 12.05, intellectual disorder. This section devoted to listing 12.05 is necessary because of the differences between this listing and all other mental disorders listings, and the several clarifications provided in these final rules about adjudicating claims under listing 12.05. Final 12.00H includes information and guidance about establishing significantly subaverage general intellectual functioning, establishing significant deficits in adaptive functioning, and establishing that the disorder began before age 22. We include subsections that discuss the evidence we consider, standardized tests of intelligence, adaptive functioning, and our consideration of common everyday activities and work activity.

Final 12.00H2a describes how we establish significantly subaverage general intellectual functioning, which is one of the criteria for listing 12.05. This section explains that we identify significantly subaverage general intellectual functioning by an IQ score(s). Final 12.00H2b and H2c are new sections that describe our psychometric standards. We added these sections in response to a public comment noting that our prior rules had information on these important topics, but the proposed rules did not.

We moved and changed the guidance about how we will consider IQ test scores from proposed 12.00B4d and 12.00D4 to final 12.00H2d. We revised the policies in response to several public comments raising concern that the proposed rules about interpreting test results gave too much discretion to adjudicators who may not have the expertise of the test administrators. In response to these comments, final 12.00H2d indicates that only qualified specialists, Federal and State agency medical and psychological consultants, and other contracted medical and psychological experts may conclude that an obtained IQ score is not an accurate reflection of a claimant's general intellectual functioning. We explain our reasons for making this change in detail earlier in this preamble.

Final 12.00I (Proposed 12.00H): How do we evaluate substance use disorders?

This section explains how we evaluate mental disorders that do not meet one of the mental disorders listings. In these final rules, we moved this information from proposed 12.00H to final 12.00I to accommodate adding new a section, final 12.00H earlier in the introductory text. Although we received several public comments requesting changes regarding this section of the rules, we were unable to make those changes for reasons we explain earlier in this preamble. We did not make any substantive changes to this section.

Final 12.00J (Proposed 12.00I): How do we evaluate mental disorders that do not meet one of the mental disorders listings?

This section explains how we evaluate mental disorders that do not meet one of the mental disorders listings. This section also explains what rules we use when we decide whether a person receiving benefits continues to be disabled. In these final rules, we moved this information from proposed 12.00I to final 12.00J to accommodate adding final 12.00H earlier in the introductory text. We did not make any substantive changes to this section.

12.01 Category of Impairments, Mental Disorders

The final rules revise all of the mental disorders listings. We made many of the revisions in response to public comments on the NPRM. To avoid repeating the same information multiple times, the list below summarizes the changes that apply to many or all of the listings:

- The final rules update the titles of listings 12.02, 12.03, 12.04, 12.06, 12.07, 12.08, 12.11, and 12.15 to reflect the terms the APA uses to describe the categories of mental disorders in the DSM–5.
- All final listings (except for 12.05 and 112.05) include "paragraph A criteria" that are similar to our prior rules. We kept the paragraph A criteria in the listings in response to a public comment on the NPRM that identified the benefits of having the criteria. The paragraph A criteria in the final listings reflect the diagnostic criteria of disorders in the DSM–5. Although a claimant must have a medically determinable mental impairment, the claimant does *not* have to have a diagnosis for his or her mental impairment to satisfy the listing criteria. The medical evidence must demonstrate the required paragraph A criteria are present for us to find that the impairment meets the listing.
- We changed the title of the paragraph B1 criteria to "understand, remember, or apply information," and the title of the paragraph B3 criteria to "concentrate, persist, or maintain pace." The titles are linked by "or" rather than "and" in response to public comments on the NPRM, and to clarify our rules about how we rate a person's degree of functional limitation.
- We changed the title of paragraph B4 to "adapt or manage oneself" in partial response to public comments on the NPRM.
- The final rules revise the paragraph C criteria in listings 12.02, 12.03, 12.04, 12.06, and 12.15. The paragraph C criteria state that a person must have a medically documented history of the existence of his or her disorder over a period of at least 2 years. This requirement is consistent with our prior rules.
- Final listings 12.07, 12.08, 12.10, 12.11 and 12.13 do not include paragraph C criteria. We made this change because our medical and psychological experts, and our program experience, indicate that the unique medical situation we identify with the paragraph C criteria typically does not apply to the disorders we evaluate under these listings.

In addition to these changes, we also made changes to individual listings. We describe those changes in the following sections.

12.05 Intellectual Disorder

Final listing 12.05 includes important revisions that we made in response to public comments. The name of the listing is now intellectual disorder, and we organized the criteria in the listing to reflect the three elements of the medical definition of intellectual disability. We explain these changes and our reasons for making them earlier in this preamble.

12.15 Trauma- and Stressor-Related Disorders

Final listing 12.15 is a new listing we will use to evaluate trauma- and stressor-related disorders such as posttraumatic stress disorder. Prior versions of the DSM, such as the DSM–IV–TR, included trauma- and stressor-related disorders as a type of anxiety disorder. Under our prior rules, we evaluated trauma- and stressor-related disorders under prior listing 12.06, anxiety-related disorders. However, the DSM–5 created a separate diagnostic category for trauma- and stressor-related disorders. As a result, we created new listing 12.15 to evaluate these types of impairments.

The paragraph A criteria in final listing 12.15 reflect diagnostic criteria of posttraumatic stress disorder, which is a type of trauma- and stressor-related disorder included in the DSM–5. Final listing 12.15 includes paragraph C criteria because prior listing 12.06 included the criteria, and because our medical and psychological experts advised us that the unique medical situation that we identify with the paragraph C criteria often applies to trauma- and stressor-related disorders.

The following is a detailed description of the changes in pertinent sections of Part B, the Childhood Mental Disorders Listings.

112.00 Mental Disorders

We made a number of changes throughout 112.00 to make the final childhood mental disorders listings consistent with the final adult listings. In some cases, the revisions are not substantive. In others, our reasons for the changes are the same as our reasons for changing the adult rules, and we explain them earlier in this preamble. We also made minor changes in 112.00, either to clarify or enhance our discussion of the rules for children. In the following sections, we explain the substantive changes to 112.00 that were not applicable to our explanation of the changes to the adult rules.

Final 112.00F (Proposed 112.00D): How do we use the paragraph B criteria to evaluate mental disorders in children?

Final 112.00F explains how we use the paragraph B criteria to evaluate a child's mental disorder. In final 112.00F2, we explain that a child's mental disorder must result in extreme limitation of one, or marked limitation of two, paragraph B criteria. We provide citations to §§ 416.925(b)(2)(ii) and 416.926a(e) for the definitions of the terms "marked" and "extreme" for child claimants. Although we suggested definitions for marked and extreme in proposed 112.00D2 and D3, we did not make those definitions final. The definitions we proposed for children were similar to the definitions that we proposed for adults. We did not make final the proposed definitions in the adult listings for the reasons we explained earlier in the preamble. Furthermore, our childhood policy regulations already include definitions for the terms marked and extreme. For these reasons, we removed definitions of marked and extreme from 112.00F2, and we include a citation to the definitions of those terms in our regulations.

Final 112.00I: What additional considerations do we use to evaluate developmental disorders of infants and toddlers?

Final 112.00I explains how we use listing 112.14 to evaluate developmental disorders of infants and toddlers from birth to age three. In these final rules, we made changes to this section and reorganized how we present the information to avoid repeating guidance found elsewhere in the introductory text.

In final 112.00I2, we discuss how we calculate a child's age and how we assess a child's level of development. We expanded our discussion from proposed 112.00I2c to include guidance about when we will use a child's corrected chronological age, and how we use developmental assessments. We moved the description of the listing category from proposed 112.00I2a and I2b to 112.00B, where we describe all other listing categories.

In final 112.00I3, we added additional information about the types of evidence that we typically receive for infants and toddlers from birth to age three. We removed proposed sections 112.00I4 and I5 that provided information about how we use the paragraph B criteria to evaluate a developmental disorder and how we consider supports when we evaluate a child's functioning. These sections duplicated the revised guidance we provide in final 112.00F and G, and we do not need to repeat them. We renumbered the guidelines about deferring determinations from proposed 112.00I6 to final 112.00I5.

The following is a detailed description of the changes in §§ 404.1520a and 416.920a.

Sections 404.1520a and 416.920a: Evaluation of Mental Impairments

Sections 404.1520a and 416.920a describe a special technique, known as the psychiatric review technique, which we use when we evaluate the severity of mental impairments for adults, and for persons under age 18 when we use Part A of the listings. Although we proposed in the NPRM to remove these two sections, the final rules keep these sections because of public comments we received, and for the reasons we explained earlier in the preamble. Therefore, we are not making final the changes proposed in the NPRM to sections 404.941, 404.1503, 404.1615, 416.903, 416.934, 416.1015, and 416.1441. We are making conforming changes to sections 404.1520a and 416.920a to be consistent with the final rules. In paragraphs (c) and (d) of each section, we removed the references to the four paragraph B criteria from our prior rules and replaced them with the four updated paragraph B criteria from these final rules. We also removed the references to the unique rating scale that only applied to paragraph B4 under our prior rules, "episodes of decompensation," because it is no longer necessary under the final rules.

What is our authority to make rules and set procedures for determining whether a person is disabled under our statutory definition?

Under the Act, we have authority to make rules and regulations and to establish necessary and appropriate procedures to carry out such provisions.[18]

How long will these final rules be in effect?

These final rules will remain in effect for 5 years after the date they become effective, unless we extend them, or revise and issue them again. We will continue to monitor these rules to ensure that they continue to meet program purposes, and may revise them before the end of the 5-year period if warranted.

Regulatory Procedures

Executive Order 12866, as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that these final rules meet the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Therefore, OMB reviewed these final rules.

Regulatory Flexibility Act

We certify that these final rules will not have a significant economic impact on a substantial number of small entities because they affect individuals only. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

Paperwork Reduction Act

These rules do not create any new or affect any existing collections and, therefore, do not require Office of Management and Budget approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; and 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure; Blind; Disability benefits; Old-age, Survivors, and Disability Insurance; Reporting and recordkeeping requirements; Social Security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability cash payments, Public assistance programs, Supplemental Security Income (SSI), Reporting and recordkeeping requirements.

Carolyn W. Colvin,

Acting Commissioner of Social Security.

For the reasons set out in the preamble, we are amending subpart P of part 404 and subpart I of part 416 of chapter III of title 20 of the Code of Federal Regulations as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart P—Determining Disability and Blindness

■ 1. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a)–(b) and (d)–(h), 216(i), 221(a), (i), and (j), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a)–(b) and (d)–(h), 416(i), 421(a), (i), and (j), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189; sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. Amend § 404.1520a by revising paragraphs (c)(3) and (4) and (d)(1) to read as follows:

§ 404.1520a Evaluation of mental impairments.

* * * * *

(c) * * *

(3) We have identified four broad functional areas in which we will rate the degree of your functional limitation: Understand, remember, or apply information; interact with others; concentrate, persist, or maintain pace; and adapt or manage oneself. See 12.00E of the Listing of Impairments in appendix 1 to this subpart.

(4) When we rate your degree of limitation in these areas (understand, remember, or apply information; interact with others; concentrate, persist, or maintain pace; and adapt or manage oneself), we will use the following five-point scale: None, mild, moderate, marked, and extreme. The last point on the scale represents a degree of limitation that is incompatible with the ability to do any gainful activity.

(d) * * *

(1) If we rate the degrees of your limitation as "none" or "mild," we will generally conclude that your impairment(s) is not severe, unless the evidence otherwise indicates that there is more than a minimal limitation in

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[18] See sections 205(a), 702(a)(5), and 1631(d)(1) (42 U.S.C. 405(a), 902(a)(5), 1383(d)(1)).

your ability to do basic work activities (see § 404.1521).

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■ 3. Amend appendix 1 to subpart P of part 404 as follows:

■ a. Revise item 13 of the introductory text before part A.

■ b. Revise section 12.00 of part A.

■ c. In Part B:

■ i. Revise section 112.00.

■ ii. Revise the first sentence of section 114.00D6e(ii).

■ iii. Remove section 114.00I and redesignate section 114.00J as section 114.00I.

■ iv. Revise 114.02 and 114.03.

■ v. Remove the semicolon and the word "or" after section 114.04C2 and add a period in their place.

■ vi. Remove section 114.04D.

■ vii. Remove the word "or" after section 114.05D.

■ viii. Remove section 114.05E.

■ ix. Revise 114.06.

■ x. Remove the word "or" after section 114.07B.

■ xi. Remove section 114.07C.

■ xii. Remove the word "or" after section 114.08K6.

■ xiii. Remove section 114.08L.

■ xiv. Remove the word "or" after section 114.09C2.

■ xv. Remove section 114.09D.

■ xvi. Revise 114.10.

The revisions read as follows:

Appendix 1 to Subpart P of Part 404—Listing of Impairments

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13. Mental Disorders (12.00 and 112.00): January 17, 2022.

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Part A

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12.00 Mental Disorders

A. *How are the listings for mental disorders arranged, and what do they require?*

1. The listings for mental disorders are arranged in 11 categories: Neurocognitive disorders (12.02); schizophrenia spectrum and other psychotic disorders (12.03); depressive, bipolar and related disorders (12.04); intellectual disorder (12.05); anxiety and obsessive-compulsive disorders (12.06); somatic symptom and related disorders (12.07); personality and impulse-control disorders (12.08); autism spectrum disorder (12.10); neurodevelopmental disorders (12.11); eating disorders (12.13); and trauma- and stressor-related disorders (12.15).

2. Listings 12.07, 12.08, 12.10, 12.11, and 12.13 have two paragraphs, designated A and B; your mental disorder must satisfy the requirements of both paragraphs A and B. Listings 12.02, 12.03, 12.04, 12.06, and 12.15 have three paragraphs, designated A, B, and C; your mental disorder must satisfy the requirements of both paragraphs A and B, or the requirements of both paragraphs A and C. Listing 12.05 has two paragraphs that are unique to that listing (see 12.00A3); your mental disorder must satisfy the requirements of either paragraph A or paragraph B.

a. Paragraph A of each listing (except 12.05) includes the medical criteria that must be present in your medical evidence.

b. Paragraph B of each listing (except 12.05) provides the functional criteria we assess, in conjunction with a rating scale (see 12.00E and 12.00F), to evaluate how your mental disorder limits your functioning. These criteria represent the areas of mental functioning a person uses in a work setting. They are: Understand, remember, or apply information; interact with others; concentrate, persist, or maintain pace; and adapt or manage oneself. We will determine the degree to which your medically determinable mental impairment affects the four areas of mental functioning and your ability to function independently, appropriately, effectively, and on a sustained basis (see §§ 404.1520a(c)(2) and 416.920a(c)(2) of this chapter). To satisfy the paragraph B criteria, your mental disorder must result in "extreme" limitation of one, or "marked" limitation of two, of the four areas of mental functioning. (When we refer to "paragraph B criteria" or "area[s] of mental functioning" in the introductory text of this body system, we mean the criteria in paragraph B of every listing except 12.05.)

c. Paragraph C of listings 12.02, 12.03, 12.04, 12.06, and 12.15 provides the criteria we use to evaluate "serious and persistent mental disorders." To satisfy the paragraph C criteria, your mental disorder must be "serious and persistent"; that is, there must be a medically documented history of the existence of the disorder over a period of at least 2 years, and evidence that satisfies the criteria in both C1 and C2 (see 12.00G). (When we refer to "paragraph C" or "the paragraph C criteria" in the introductory text of this body system, we mean the criteria in paragraph C of listings 12.02, 12.03, 12.04, 12.06, and 12.15.)

3. Listing 12.05 has two paragraphs, designated A and B, that apply to only intellectual disorder. Each paragraph requires that you have significantly subaverage general intellectual functioning; significant deficits in current adaptive functioning; and evidence that demonstrates or supports (is consistent with) the conclusion that your disorder began prior to age 22.

B. *Which mental disorders do we evaluate under each listing category?*

1. *Neurocognitive disorders (12.02).*

a. These disorders are characterized by a clinically significant decline in cognitive functioning. Symptoms and signs may include, but are not limited to, disturbances in memory, executive functioning (that is, higher-level cognitive processes; for example, regulating attention, planning, inhibiting responses, decision-making), visual-spatial functioning, language and speech, perception, insight, judgment, and insensitivity to social standards.

b. Examples of disorders that we evaluate in this category include major neurocognitive disorder; dementia of the Alzheimer type; vascular dementia; dementia due to a medical condition such as a metabolic disease (for example, late-onset Tay-Sachs disease), human immunodeficiency virus infection, vascular malformation, progressive brain tumor, neurological disease (for example, multiple sclerosis, Parkinsonian syndrome, Huntington disease), or traumatic brain injury; or substance-induced cognitive disorder associated with drugs of abuse, medications, or toxins. (We evaluate neurological disorders under that body system (see 11.00). We evaluate cognitive impairments that result from neurological disorders under 12.02 if they do not satisfy the requirements in 11.00 (see 11.00G).)

c. This category does not include the mental disorders that we evaluate under intellectual disorder (12.05), autism spectrum disorder (12.10), and neurodevelopmental disorders (12.11).

2. *Schizophrenia spectrum and other psychotic disorders (12.03).*

a. These disorders are characterized by delusions, hallucinations, disorganized speech, or grossly disorganized or catatonic behavior, causing a clinically significant decline in functioning. Symptoms and signs may include, but are not limited to, inability to initiate and persist in goal-directed activities, social withdrawal, flat or inappropriate affect, poverty of thought and speech, loss of interest or pleasure, disturbances of mood, odd beliefs and mannerisms, and paranoia.

b. Examples of disorders that we evaluate in this category include schizophrenia, schizoaffective disorder, delusional disorder, and psychotic disorder due to another medical condition.

3. *Depressive, bipolar and related disorders (12.04).*

a. These disorders are characterized by an irritable, depressed, elevated, or expansive mood, or by a loss of interest or pleasure in all or almost all activities, causing a clinically significant decline in functioning. Symptoms and signs may include, but are not limited to, feelings of hopelessness or guilt, suicidal ideation, a clinically significant change in body weight or appetite, sleep disturbances, an increase or decrease in energy, psychomotor abnormalities, disturbed concentration, pressured speech, grandiosity, reduced impulse control, sadness, euphoria, and social withdrawal.

b. Examples of disorders that we evaluate in this category include bipolar disorders (I or II), cyclothymic disorder, major depressive disorder, persistent depressive disorder (dysthymia), and bipolar or depressive disorder due to another medical condition.

4. *Intellectual disorder (12.05).*

a. This disorder is characterized by significantly subaverage general intellectual functioning, significant deficits in current adaptive functioning, and manifestation of the disorder before age 22. Signs may include, but are not limited to, poor conceptual, social, or practical skills evident in your adaptive functioning.

b. The disorder that we evaluate in this category may be described in the evidence as intellectual disability, intellectual developmental disorder, or historically used terms such as "mental retardation."

c. This category does not include the mental disorders that we evaluate under neurocognitive disorders (12.02), autism spectrum disorder (12.10), or neurodevelopmental disorders (12.11).

5. *Anxiety and obsessive-compulsive disorders (12.06).*

a. These disorders are characterized by excessive anxiety, worry, apprehension, and fear, or by avoidance of feelings, thoughts, activities, objects, places, or people. Symptoms and signs may include, but are not limited to, restlessness, difficulty concentrating, hyper-vigilance, muscle tension, sleep disturbance, fatigue, panic attacks, obsessions and compulsions, constant thoughts and fears about safety, and frequent physical complaints.

b. Examples of disorders that we evaluate in this category include social anxiety disorder, panic disorder, generalized anxiety disorder, agoraphobia, and obsessive-compulsive disorder.

c. This category does not include the mental disorders that we evaluate under trauma- and stressor-related disorders (12.15).

6. *Somatic symptom and related disorders (12.07).*

a. These disorders are characterized by physical symptoms or deficits that are not intentionally produced or feigned, and that, following clinical investigation, cannot be fully explained by a general medical condition, another mental disorder, the direct effects of a substance, or a culturally sanctioned behavior or experience. These disorders may also be characterized by a preoccupation with having or acquiring a serious medical condition that has not been identified or diagnosed. Symptoms and signs may include, but are not limited to, pain and other abnormalities of sensation, gastrointestinal symptoms, fatigue, a high level of anxiety about personal health status, abnormal motor movement, pseudoseizures, and pseudoneurological symptoms, such as blindness or deafness.

b. Examples of disorders that we evaluate in this category include somatic symptom disorder, illness anxiety disorder, and conversion disorder.

7. *Personality and impulse-control disorders (12.08).*

a. These disorders are characterized by enduring, inflexible, maladaptive, and pervasive patterns of behavior. Onset typically occurs in adolescence or young adulthood. Symptoms and signs may include, but are not limited to, patterns of distrust, suspiciousness, and odd beliefs; social detachment, discomfort, or avoidance; hypersensitivity to negative evaluation; an excessive need to be taken care of; difficulty making independent decisions; a preoccupation with orderliness, perfectionism, and control; and inappropriate, intense, impulsive anger and behavioral expression grossly out of proportion to any external provocation or psychosocial stressors.

b. Examples of disorders that we evaluate in this category include paranoid, schizoid, schizotypal, borderline, avoidant, dependent, obsessive-compulsive personality disorders, and intermittent explosive disorder.

8. *Autism spectrum disorder (12.10).*

a. These disorders are characterized by qualitative deficits in the development of reciprocal social interaction, verbal and nonverbal communication skills, and symbolic or imaginative activity; restricted repetitive and stereotyped patterns of behavior, interests, and activities; and stagnation of development or loss of acquired skills early in life. Symptoms and signs may include, but are not limited to, abnormalities and unevenness in the development of cognitive skills; unusual responses to sensory stimuli; and behavioral difficulties, including hyperactivity, short attention span, impulsivity, aggressiveness, or self-injurious actions.

b. Examples of disorders that we evaluate in this category include autism spectrum disorder with or without accompanying intellectual impairment, and autism spectrum disorder with or without accompanying language impairment.

c. This category does not include the mental disorders that we evaluate under neurocognitive disorders (12.02), intellectual disorder (12.05), and neurodevelopmental disorders (12.11).

9. *Neurodevelopmental disorders (12.11).*

a. These disorders are characterized by onset during the developmental period, that is, during childhood or adolescence, although sometimes they are not diagnosed until adulthood. Symptoms and signs may include, but are not limited to, underlying abnormalities in cognitive processing (for example, deficits in learning and applying verbal or nonverbal information, visual perception, memory, or a combination of these); deficits in attention or impulse control; low frustration tolerance; excessive or poorly planned motor activity; difficulty with organizing (time, space, materials, or tasks); repeated accidental injury; and deficits in social skills. Symptoms and signs specific to tic disorders include sudden, rapid, recurrent, non-rhythmic, motor movement or vocalization.

b. Examples of disorders that we evaluate in this category include specific learning disorder, borderline intellectual functioning, and tic disorders (such as Tourette syndrome).

c. This category does not include the mental disorders that we evaluate under neurocognitive disorders (12.02), autism spectrum disorder (12.10), or personality and impulse-control disorders (12.08).

10. *Eating disorders (12.13).*

a. These disorders are characterized by disturbances in eating behavior and preoccupation with, and excessive self-evaluation of, body weight and shape. Symptoms and signs may include, but are not limited to, restriction of energy consumption when compared with individual requirements; recurrent episodes of binge eating or behavior intended to prevent weight gain, such as self-induced vomiting, excessive exercise, or misuse of laxatives; mood disturbances, social withdrawal, or irritability; amenorrhea; dental problems; abnormal laboratory findings; and cardiac abnormalities.

b. Examples of disorders that we evaluate in this category include anorexia nervosa, bulimia nervosa, binge-eating disorder, and avoidant/restrictive food disorder.

11. *Trauma- and stressor-related disorders (12.15).*

a. These disorders are characterized by experiencing or witnessing a traumatic or stressful event, or learning of a traumatic event occurring to a close family member or close friend, and the psychological aftermath of clinically significant effects on functioning. Symptoms and signs may include, but are not limited to, distressing memories, dreams, and flashbacks related to the trauma or stressor; avoidant behavior; diminished interest or participation in significant activities; persistent negative emotional states (for example, fear, anger) or persistent inability to experience positive emotions (for example, satisfaction, affection); anxiety; irritability; aggression; exaggerated startle response; difficulty concentrating; and sleep disturbance.

b. Examples of disorders that we evaluate in this category include posttraumatic stress disorder and other specified trauma- and stressor-related disorders (such as adjustment-like disorders with prolonged duration without prolonged duration of stressor).

c. This category does not include the mental disorders that we evaluate under anxiety and obsessive-compulsive disorders (12.06), and cognitive impairments that result from neurological disorders, such as a traumatic brain injury, which we evaluate under neurocognitive disorders (12.02).

C. *What evidence do we need to evaluate your mental disorder?*

1. *General.* We need evidence from an acceptable medical source to establish that you have a medically determinable mental disorder. We also need evidence to assess the severity of your mental disorder and its effects on your ability to function in a work setting. We will determine the extent and kinds of evidence we need from medical and non-medical sources based on the individual facts about your disorder. For additional evidence requirements for intellectual disorder (12.05), see 12.00H. For our basic rules on evidence, see §§ 404.1512, 404.1513, 404.1520b, 416.912, 416.913, and 416.920b of this chapter. For our rules on evaluating opinion evidence, see §§ 404.1527 and 416.927 of this chapter. For our rules on evidence about your symptoms, see §§ 404.1529 and 416.929 of this chapter.

2. *Evidence from medical sources.* We will consider all relevant medical evidence about your disorder from your physician, psychologist, and other medical sources, which include health care providers such as physician assistants, psychiatric nurse practitioners, licensed clinical social workers, and clinical mental health counselors. Evidence from your medical sources may include:

a. Your reported symptoms.

b. Your medical, psychiatric, and psychological history.

c. The results of physical or mental status examinations, structured clinical interviews, psychiatric or psychological rating scales, measures of adaptive functioning, or other clinical findings.

d. Psychological testing, imaging results, or other laboratory findings.

e. Your diagnosis.

f. The type, dosage, and beneficial effects of medications you take.

g. The type, frequency, duration, and beneficial effects of therapy you receive.

h. Side effects of medication or other treatment that limit your ability to function.

i. Your clinical course, including changes in your medication, therapy, or other treatment, and the time required for therapeutic effectiveness.

j. Observations and descriptions of how you function during examinations or therapy.

k. Information about sensory, motor, or speech abnormalities, or about your cultural background (for example, language or customs) that may affect an evaluation of your mental disorder.

l. The expected duration of your symptoms and signs and their effects on your functioning, both currently and in the future.

3. *Evidence from you and people who know you.* We will consider all relevant evidence about your mental disorder and your daily functioning that we receive from you and from people who know you. We will ask about your symptoms, your daily functioning, and your medical treatment. We will ask for information from third parties who can tell us about your mental disorder, but you must give us permission to do so. This evidence may include information from your family, caregivers, friends, neighbors, clergy, case managers, social workers, shelter staff, or other community support and outreach workers. We will consider whether your statements and the statements from third parties are consistent with the medical and other evidence we have.

4. *Evidence from school, vocational training, work, and work-related programs.*

a. *School.* You may have recently attended or may still be attending school, and you may have received or may still be receiving special education services. If so, we will try to obtain information from your school sources when we need it to assess how your mental disorder affects your ability to function. Examples of this information include your Individualized Education Programs (IEPs), your Section 504 plans, comprehensive evaluation reports, school-related therapy progress notes, information from your teachers about how you function in a classroom setting, and information about any special services or accommodations you receive at school.

b. *Vocational training, work, and work-related programs.* You may have recently participated in or may still be participating in vocational training, work-related programs, or work activity. If so, we will try to obtain information from your training program or your employer when we need it to assess how your mental disorder affects your ability to function. Examples of this information include training or work evaluations, modifications to your work duties or work schedule, and any special supports or accommodations you have required or now require in order to work. If you have worked or are working through a community mental health program, sheltered or supported work program, rehabilitation program, or transitional employment program, we will consider the type and degree of support you have received or are receiving in order to work (see 12.00D).

5. *Need for longitudinal evidence.*

a. *General.* Longitudinal medical evidence can help us learn how you function over time, and help us evaluate any variations in the level of your functioning. We will request longitudinal evidence of your mental disorder when your medical providers have records concerning you and your mental disorder over a period of months or perhaps years (see §§ 404.1512(d) and 416.912(d) of this chapter).

b. *Non-medical sources of longitudinal evidence.* Certain situations, such as chronic homelessness, may make it difficult for you to provide longitudinal medical evidence. If you have a severe mental disorder, you will probably have evidence of its effects on your functioning over time, even if you have not had an ongoing relationship with the medical community or are not currently receiving treatment. For example, family members, friends, neighbors, former employers, social workers, case managers, community support staff, outreach workers, or government agencies may be familiar with your mental health history. We will ask for information from third parties who can tell us about your mental disorder, but you must give us permission to do so.

c. *Absence of longitudinal evidence.* In the absence of longitudinal evidence, we will use current objective medical evidence and all other relevant evidence available to us in your case record to evaluate your mental disorder. If we purchase a consultative examination to document your disorder, the record will include the results of that examination (see §§ 404.1514 and 416.914 of this chapter). We will take into consideration your medical history, symptoms, clinical and laboratory findings, and medical source opinions. If you do not have longitudinal evidence, the current evidence alone may not be sufficient or appropriate to show that you have a disorder that meets the criteria of one of the mental disorders listings. In that case, we will follow the rules in 12.00J.

6. *Evidence of functioning in unfamiliar situations or supportive situations.*

a. *Unfamiliar situations.* We recognize that evidence about your functioning in unfamiliar situations does not necessarily show how you would function on a sustained basis in a work setting. In one-time, time-limited, or other unfamiliar situations, you may function differently than you do in familiar situations. In unfamiliar situations, you may appear more, or less, limited than you do on a daily basis and over time.

b. *Supportive situations.* Your ability to complete tasks in settings that are highly structured, or that are less demanding or more supportive than typical work settings does not necessarily demonstrate your ability to complete tasks in the context of regular employment during a normal workday or work week.

c. *Our assessment.* We must assess your ability to complete tasks by evaluating all the evidence, such as reports about your functioning from you and third parties who are familiar with you, with an emphasis on how independently, appropriately, and effectively you are able to complete tasks on a sustained basis.

D. *How do we consider psychosocial supports, structured settings, living arrangements, and treatment?*

1. *General.* Psychosocial supports, structured settings, and living arrangements, including assistance from your family or others, may help you by reducing the demands made on you. In addition, treatment you receive may reduce your symptoms and signs and possibly improve your functioning, or may have side effects that limit your functioning. Therefore, when we evaluate the effects of your mental disorder and rate the limitation of your areas of mental functioning, we will consider the kind and extent of supports you receive, the characteristics of any structured setting in which you spend your time, and the effects of any treatment. This evidence may come from reports about your functioning from you or third parties who are familiar with you, and other third-party statements or information. Following are some examples of the supports you may receive:

a. You receive help from family members or other people who monitor your daily activities and help you to function. For example, family members administer your medications, remind you to eat, shop for you and pay your bills, or change their work hours so you are never home alone.

b. You participate in a special education or vocational training program, or a psychosocial rehabilitation day treatment or community support program, where you receive training in daily living and entry-level work skills.

c. You participate in a sheltered, supported, or transitional work program, or in a competitive employment setting with the help of a job coach or supervisor.

d. You receive comprehensive "24/7 wrap-around" mental health services while living in a group home or transitional housing, while participating in a semi-independent living program, or while living in individual housing (for example, your own home or apartment).

e. You live in a hospital or other institution with 24-hour care.

f. You receive assistance from a crisis response team, social workers, or community mental health workers who help you meet your physical needs, and who may also represent you in dealings with government or community social services.

g. You live alone and do not receive any psychosocial support(s); however, you have created a highly structured environment by eliminating all but minimally necessary contact with the world outside your living space.

2. *How we consider different levels of support and structure in psychosocial rehabilitation programs.*

a. Psychosocial rehabilitation programs are based on your specific needs. Therefore, we cannot make any assumptions about your mental disorder based solely on the fact that you are associated with such a program. We must know the details of the program(s) in which you are involved and the pattern(s) of your involvement over time.

b. The kinds and levels of supports and structures in psychosocial rehabilitation programs typically occur on a scale of "most restrictive" to "least restrictive." Participation in a psychosocial rehabilitation program at the most restrictive level would suggest greater limitation of your areas of mental functioning than would participation at a less restrictive level. The length of time you spend at different levels in a program also provides information about your functioning. For example, you could begin participation at the most restrictive crisis intervention level but gradually improve to the point of readiness for a lesser level of support and structure and possibly some form of employment.

3. *How we consider the help or support you receive.*

a. We will consider the complete picture of your daily functioning, including the kinds, extent, and frequency of help and support you receive, when we evaluate your mental disorder and determine whether you are able to use the four areas of mental functioning in a work setting. The fact that you have done, or currently do, some routine activities without help or support does not necessarily mean that you do not have a mental disorder or that you are not disabled. For example, you may be able to take care of your personal needs, cook, shop, pay your bills, live by yourself, and drive a car. You may demonstrate both strengths and deficits in your daily functioning.

b. You may receive various kinds of help and support from others that enable you to do many things that, because of your mental disorder, you might not be able to do independently. Your daily functioning may depend on the special contexts in which you function. For example, you may spend your time among only familiar people or surroundings, in a simple and steady routine or an unchanging environment, or in a highly structured setting. However, this does not necessarily show how you would function in a work setting on a sustained basis, throughout a normal workday and workweek. (See 12.00H for further discussion of these issues regarding significant deficits in adaptive functioning for the purpose of 12.05.)

4. *How we consider treatment.* We will consider the effect of any treatment on your functioning when we evaluate your mental disorder. Treatment may include medication(s), psychotherapy, or other forms of intervention, which you receive in a doctor's office, during a hospitalization, or in a day program at a hospital or outpatient treatment program. With treatment, you may not only have your symptoms and signs reduced, but may also be able to function in a work setting. However, treatment may not resolve all of the limitations that result from your mental disorder, and the medications you take or other treatment you receive for your disorder may cause side effects that limit your mental or physical functioning. For example, you may experience drowsiness, blunted affect, memory loss, or abnormal involuntary movements.

E. *What are the paragraph B criteria?*

1. *Understand, remember, or apply information (paragraph B1).* This area of mental functioning refers to the abilities to learn, recall, and use information to perform work activities. Examples include: Understanding and learning terms, instructions, procedures; following one- or two-step oral instructions to carry out a task; describing work activity to someone else; asking and answering questions and providing explanations; recognizing a mistake and correcting it; identifying and solving problems; sequencing multi-step activities; and using reason and judgment to make work-related decisions. These examples illustrate the nature of this area of mental functioning. We do not require documentation of all of the examples.

2. *Interact with others (paragraph B2).* This area of mental functioning refers to the abilities to relate to and work with supervisors, co-workers, and the public. Examples include: cooperating with others; asking for help when needed; handling conflicts with others; stating own point of view; initiating or sustaining conversation; understanding and responding to social cues (physical, verbal, emotional); responding to requests, suggestions, criticism, correction, and challenges; and keeping social interactions free of excessive irritability, sensitivity, argumentativeness, or suspiciousness. These examples illustrate the nature of this area of mental functioning. We do not require documentation of all of the examples.

3. *Concentrate, persist, or maintain pace (paragraph B3).* This area of mental functioning refers to the abilities to focus attention on work activities and stay on task at a sustained rate. Examples include: Initiating and performing a task that you understand and know how to do; working at an appropriate and consistent pace; completing tasks in a timely manner; ignoring or avoiding distractions while working; changing activities or work settings without being disruptive; working close to or with others without interrupting or distracting them; sustaining an ordinary routine and regular attendance at work; and working a full day without needing more than the allotted number or length of rest periods during the day. These examples illustrate the nature of this area of mental functioning. We do not require documentation of all of the examples.

4. *Adapt or manage oneself (paragraph B4).* This area of mental functioning refers to the abilities to regulate emotions, control behavior, and maintain well-being in a work setting. Examples include: Responding to demands; adapting to changes; managing your psychologically based symptoms; distinguishing between acceptable and unacceptable work performance; setting realistic goals; making plans for yourself independently of others; maintaining personal hygiene and attire appropriate to a work setting; and being aware of normal hazards and taking appropriate precautions. These examples illustrate the nature of this area of mental functioning. We do not require documentation of all of the examples.

F. *How do we use the paragraph B criteria to evaluate your mental disorder?*

1. *General.* We use the paragraph B criteria, in conjunction with a rating scale (see 12.00F2), to rate the degree of your limitations. We consider only the limitations that result from your mental disorder(s). We will determine whether you are able to use each of the paragraph B areas of mental functioning in a work setting. We will consider, for example, the kind, degree, and frequency of difficulty you would have; whether you could function without extra help, structure, or supervision; and whether you would require special conditions with regard to activities or other people (see 12.00D).

2. *The five-point rating scale.* We evaluate the effects of your mental disorder on each of the four areas of mental functioning based on a five-point rating scale consisting of none, mild, moderate, marked, and extreme limitation. To satisfy the paragraph B criteria, your mental disorder must result in extreme limitation of one, or marked limitation of two, paragraph B areas of mental functioning. Under these listings, the five rating points are defined as follows:

a. *No limitation (or none).* You are able to function in this area independently, appropriately, effectively, and on a sustained basis.

b. *Mild limitation.* Your functioning in this area independently, appropriately, effectively, and on a sustained basis is slightly limited.

c. *Moderate limitation.* Your functioning in this area independently, appropriately, effectively, and on a sustained basis is fair.

d. *Marked limitation.* Your functioning in this area independently, appropriately, effectively, and on a sustained basis is seriously limited.

e. *Extreme limitation.* You are not able to function in this area independently, appropriately, effectively, and on a sustained basis.

3. *Rating the limitations of your areas of mental functioning.*

a. *General.* We use all of the relevant medical and non-medical evidence in your case record to evaluate your mental disorder: The symptoms and signs of your disorder, the reported limitations in your activities, and any help and support you receive that is necessary for you to function. The medical evidence may include descriptors regarding the diagnostic stage or level of your disorder, such as "mild" or "moderate." Clinicians may use these terms to characterize your medical condition. However, these terms will not always be the same as the degree of your limitation in a paragraph B area of mental functioning.

b. *Areas of mental functioning in daily activities.* You use the same four areas of mental functioning in daily activities at home and in the community that you would use to function at work. With respect to a particular task or activity, you may have trouble using one or more of the areas. For example, you may have difficulty understanding and remembering what to do; or concentrating and staying on task long enough to do it; or engaging in the task or activity with other people; or trying to do the task without becoming frustrated and losing self-control. Information about your daily functioning can help us understand whether your mental disorder limits one or more of these areas; and, if so, whether it also affects your ability to function in a work setting.

c. *Areas of mental functioning in work settings.* If you have difficulty using an area of mental functioning from day-to-day at home or in your community, you may also have difficulty using that area to function in a work setting. On the other hand, if you are able to use an area of mental functioning at home or in your community, we will not necessarily assume that you would also be able to use that area to function in a work setting where the demands and stressors differ from those at home. We will consider all evidence about your mental disorder and daily functioning before we reach a conclusion about your ability to work.

d. *Overall effect of limitations.* Limitation of an area of mental functioning reflects the overall degree to which your mental disorder interferes with that area. The degree of limitation is how we document our assessment of your limitation when using the area of mental functioning independently, appropriately, effectively, and on a sustained basis. It does not necessarily reflect a specific type or number of activities, including activities of daily living, that you have difficulty doing. In addition, no single piece of information (including test results) can establish the degree of limitation of an area of mental functioning.

e. *Effects of support, supervision, structure on functioning.* The degree of limitation of an area of mental functioning also reflects the kind and extent of supports or supervision you receive and the characteristics of any structured setting where you spend your time, which enable you to function. The more extensive the support you need from others or the more structured the setting you need in order to function, the more limited we will find you to be (see 12.00D).

f. *Specific instructions for paragraphs B1, B3, and B4.* For paragraphs B1, B3, and B4, the greatest degree of limitation of any part of the area of mental functioning directs the rating of limitation of that whole area of mental functioning.

(i) To do a work-related task, you must be able to understand *and* remember *and* apply information required by the task. Similarly, you must be able to concentrate *and* persist *and* maintain pace in order to complete the task, and adapt *and* manage yourself in the workplace. Limitation in any one of these parts (understand *or* remember *or* apply; concentrate *or* persist *or* maintain pace; adapt *or* manage oneself) may prevent you from completing a work-related task.

(ii) We will document the rating of limitation of the whole area of mental functioning, not each individual part. We will not add ratings of the parts together. For example, with respect to paragraph B3, if you have marked limitation in maintaining pace, and mild or moderate limitations in concentrating and persisting, we will find that you have marked limitation in the whole paragraph B3 area of mental functioning.

(iii) Marked limitation in more than one part of the same paragraph B area of mental functioning does not satisfy the requirement to have marked limitation in two paragraph B areas of mental functioning.

4. *How we evaluate mental disorders involving exacerbations and remissions.*

a. When we evaluate the effects of your mental disorder, we will consider how often you have exacerbations and remissions, how long they last, what causes your mental disorder to worsen or improve, and any other relevant information. We will assess any limitation of the affected paragraph B area(s) of mental functioning using the rating scale for the paragraph B criteria. We will consider whether you can use the area of mental functioning on a regular and continuing basis (8 hours a day, 5 days a week, or an equivalent work schedule). We will not find that you are able to work solely because you have a period(s) of improvement (remission), or that you are disabled solely because you have a period of worsening (exacerbation), of your mental disorder.

b. If you have a mental disorder involving exacerbations and remissions, you may be able to use the four areas of mental functioning to work for a few weeks or months. Recurrence or worsening of symptoms and signs, however, can interfere enough to render you unable to sustain the work.

G. *What are the paragraph C criteria, and how do we use them to evaluate your mental disorder?*

1. *General.* The paragraph C criteria are an alternative to the paragraph B criteria under listings 12.02, 12.03, 12.04, 12.06, and 12.15. We use the paragraph C criteria to evaluate mental disorders that are "serious and persistent." In the paragraph C criteria, we recognize that mental health interventions may control the more obvious symptoms and signs of your mental disorder.

2. *Paragraph C criteria.*

a. We find a mental disorder to be "serious and persistent" when there is a medically documented history of the existence of the mental disorder in the listing category over a period of at least 2 years, and evidence shows that your disorder satisfies both C1 and C2.

b. The criterion in C1 is satisfied when the evidence shows that you rely, on an ongoing basis, upon medical treatment, mental health therapy, psychosocial support(s), or a highly structured setting(s), to diminish the symptoms and signs of your mental disorder (see 12.00D). We consider that you receive ongoing medical treatment when the medical evidence establishes that you obtain medical treatment with a frequency consistent with accepted medical practice for the type of treatment or evaluation required for your medical condition. We will consider periods of inconsistent treatment or lack of compliance with treatment that may result from your mental disorder. If the evidence indicates that the inconsistent treatment or lack of compliance is a feature of your mental disorder, and it has led to an exacerbation of your symptoms and signs, we will not use it as evidence to support a finding that you have not received ongoing medical treatment as required by this paragraph.

c. The criterion in C2 is satisfied when the evidence shows that, despite your diminished symptoms and signs, you have achieved only marginal adjustment. "Marginal adjustment" means that your adaptation to the requirements of daily life is fragile; that is, you have minimal capacity to adapt to changes in your environment or to demands that are not already part of your daily life. We will consider that you have achieved only marginal adjustment when the evidence shows that changes or increased demands have led to exacerbation of your symptoms and signs and to deterioration in your functioning; for example, you have become unable to function outside of your home or a more restrictive setting, without substantial psychosocial supports (see 12.00D). Such deterioration may have necessitated a significant change in medication or other treatment. Similarly, because of the nature of your mental disorder, evidence may document episodes of deterioration that have required you to be hospitalized or absent from work, making it difficult for you to sustain work activity over time.

H. *How do we document and evaluate intellectual disorder under 12.05?*

1. *General.* Listing 12.05 is based on the three elements that characterize intellectual disorder: Significantly subaverage general intellectual functioning; significant deficits in current adaptive functioning; and the disorder manifested before age 22.

2. *Establishing significantly subaverage general intellectual functioning.*

a. *Definition.* Intellectual functioning refers to the general mental capacity to learn, reason, plan, solve problems, and perform other cognitive functions. Under 12.05A, we identify significantly subaverage general intellectual functioning by the cognitive inability to function at a level required to participate in standardized intelligence testing. Our findings under 12.05A are based on evidence from an acceptable medical source. Under 12.05B, we identify significantly subaverage general intellectual functioning by an IQ score(s) on an individually administered standardized test of general intelligence that meets program requirements and has a mean of 100 and a standard deviation of 15. A qualified specialist (see 12.00H2c) must administer the standardized intelligence testing.

b. *Psychometric standards.* We will find standardized intelligence test results usable for the purposes of 12.05B1 when the measure employed meets contemporary psychometric standards for validity, reliability, normative data, and scope of measurement; and a qualified specialist has individually administered the test according to all pre-requisite testing conditions.

c. *Qualified specialist.* A "qualified specialist" is currently licensed or certified at the independent level of practice in the State where the test was performed, and has the training and experience to administer, score, and interpret intelligence tests. If a psychological assistant or paraprofessional administered the test, a supervisory qualified specialist must interpret the test findings and co-sign the examination report.

d. *Responsibility for conclusions based on testing.* We generally presume that your obtained IQ score(s) is an accurate reflection of your general intellectual functioning, unless evidence in the record suggests otherwise. Examples of this evidence include: a statement from the test administrator indicating that your obtained score is not an accurate reflection of your general intellectual functioning, prior or internally inconsistent IQ scores, or information about your daily functioning. Only qualified specialists, Federal and State agency medical and psychological consultants, and other contracted medical and psychological experts may conclude that your obtained IQ score(s) is not an accurate reflection of your general intellectual functioning. This conclusion must be well supported by appropriate clinical and laboratory diagnostic techniques and must be based on relevant evidence in the case record, such as:

(i) The data obtained in testing;

(ii) Your developmental history, including when your signs and symptoms began;

(iii) Information about how you function on a daily basis in a variety of settings; and

(iv) Clinical observations made during the testing period, such as your ability to sustain attention, concentration, and effort; to relate appropriately to the examiner; and to perform tasks independently without prompts or reminders.

3. *Establishing significant deficits in adaptive functioning.*

a. *Definition.* Adaptive functioning refers to how you learn and use conceptual, social, and practical skills in dealing with common life demands. It is your typical functioning at home and in the community, alone or among others. Under 12.05A, we identify significant deficits in adaptive functioning based on your dependence on others to care for your personal needs, such as eating and bathing. We will base our conclusions about your adaptive functioning on evidence from a variety of sources (see 12.00H3b) and not on your statements alone. Under 12.05B2, we identify significant deficits in adaptive functioning based on whether there is extreme limitation of one, or marked limitation of two, of the paragraph B criteria (see 12.00E; 12.00F).

b. *Evidence.* Evidence about your adaptive functioning may come from:

(i) Medical sources, including their clinical observations;

(ii) Standardized tests of adaptive functioning (see 12.00H3c);

(iii) Third party information, such as a report of your functioning from a family member or friend;

(iv) School records, if you were in school recently;

(v) Reports from employers or supervisors; and

(vi) Your own statements about how you handle all of your daily activities.

c. *Standardized tests of adaptive functioning.* We do not require the results of an individually administered standardized test of adaptive functioning. If your case record includes these test results, we will consider the results along with all other relevant evidence; however, we will use the guidelines in 12.00E and F to evaluate and determine the degree of your deficits in adaptive functioning, as required under 12.05B2.

d. *How we consider common everyday activities.*

(i) The fact that you engage in common everyday activities, such as caring for your personal needs, preparing simple meals, or driving a car, will not always mean that you do not have deficits in adaptive functioning as required by 12.05B2. You may demonstrate both strengths and deficits in your adaptive functioning. However, a lack of deficits in one area does not negate the presence of deficits in another area. When we assess your adaptive functioning, we will consider all of your activities and your performance of them.

(ii) Our conclusions about your adaptive functioning rest on whether you do your daily activities independently, appropriately, effectively, and on a sustained basis. If you receive help in performing your activities, we need to know the kind, extent, and frequency of help you receive in order to perform them. We will not assume that your ability to do some common everyday activities, or to do some things without help or support, demonstrates that your mental disorder does not meet the requirements of 12.05B2. (See 12.00D regarding the factors we consider when we evaluate your functioning, including how we consider any help or support you receive.)

e. *How we consider work activity.* The fact that you have engaged in work activity, or that you work intermittently or steadily in a job commensurate with your abilities, will not always mean that you do not have deficits in adaptive functioning as required by 12.05B2. When you have engaged in work activity, we need complete information about the work, and about your functioning in the work activity and work setting, before we reach any conclusions about your adaptive functioning. We will consider all factors involved in your work history before concluding whether your impairment satisfies the criteria for intellectual disorder under 12.05B. We will consider your prior and current work history, if any, and various other factors influencing how you function. For example, we consider whether the work was in a supported setting, whether you required more supervision than other employees, how your job duties compared to others in the same job, how much time it took you to learn the job duties, and the reason the work ended, if applicable.

4. *Establishing that the disorder began before age 22.* We require evidence that demonstrates or supports (is consistent with) the conclusion that your mental disorder began prior to age 22. We do not require evidence that your impairment met all of the requirements of 12.05A or 12.05B prior to age 22. Also, we do not require you to have met our statutory definition of disability prior to age 22. When we do not have evidence that was recorded before you attained age 22, we need evidence about your current intellectual and adaptive functioning and the history of your disorder that supports the conclusion that the disorder began before you attained age 22. Examples of evidence that can demonstrate or support this conclusion include:

a. Tests of intelligence or adaptive functioning;

b. School records indicating a history of special education services based on your intellectual functioning;

c. An Individualized Education Program (IEP), including your transition plan;

d. Reports of your academic performance and functioning at school;

e. Medical treatment records;

f. Interviews or reports from employers;

g. Statements from a supervisor in a group home or a sheltered workshop; and

h. Statements from people who have known you and can tell us about your functioning in the past and currently.

I. *How do we evaluate substance use disorders?* If we find that you are disabled and there is medical evidence in your case record establishing that you have a substance use disorder, we will determine whether your substance use disorder is a contributing factor material to the determination of disability (see §§ 404.1535 and 416.935 of this chapter).

J. *How do we evaluate mental disorders that do not meet one of the mental disorders listings?*

1. These listings include only examples of mental disorders that we consider serious enough to prevent you from doing any gainful activity. If your severe mental disorder does not meet the criteria of any of these listings, we will consider whether you have an impairment(s) that meets the criteria of a listing in another body system. You may have another impairment(s) that is secondary to your mental disorder. For example, if you have an eating disorder and develop a cardiovascular impairment because of it, we will evaluate your cardiovascular impairment under the listings for the cardiovascular body system.

2. If you have a severe medically determinable impairment(s) that does not meet a listing, we will determine whether your impairment(s) medically equals a listing (see §§ 404.1526 and 416.926 of this chapter).

3. If your impairment(s) does not meet or medically equal a listing, we will assess your residual functional capacity for engaging in substantial gainful activity (see §§ 404.1545 and 416.945 of this chapter). When we assess your residual functional capacity, we consider all of your impairment-related mental and physical limitations. For example, the side effects of some medications may reduce your general alertness, concentration, or physical stamina, affecting your residual functional capacity for non-exertional or exertional work activities. Once we have determined your residual functional capacity, we proceed to the fourth, and if necessary, the fifth steps of the sequential evaluation process in §§ 404.1520 and 416.920 of this chapter. We use the rules in §§ 404.1594 and 416.994 of this chapter, as appropriate, when we decide whether you continue to be disabled.

12.01 Category of Impairments, Mental Disorders

12.02 *Neurocognitive disorders* (see 12.00B1), satisfied by A and B, or A and C:

A. Medical documentation of a significant cognitive decline from a prior level of functioning in *one* or more of the cognitive areas:

1. Complex attention;
2. Executive function;
3. Learning and memory;
4. Language;
5. Perceptual-motor; or
6. Social cognition.

AND

B. Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 12.00F):

1. Understand, remember, or apply information (see 12.00E1).

2. Interact with others (see 12.00E2).

3. Concentrate, persist, or maintain pace (see 12.00E3).

4. Adapt or manage oneself (see 12.00E4).

OR

C. Your mental disorder in this listing category is "serious and persistent;" that is, you have a medically documented history of the existence of the disorder over a period of at least 2 years, and there is evidence of both:

1. Medical treatment, mental health therapy, psychosocial support(s), or a highly structured setting(s) that is ongoing and that diminishes the symptoms and signs of your mental disorder (see 12.00G2b); *and*

2. Marginal adjustment, that is, you have minimal capacity to adapt to changes in your environment or to demands that are not already part of your daily life (see 12.00G2c).

12.03 *Schizophrenia spectrum and other psychotic disorders* (see 12.00B2), satisfied by A and B, or A and C:

A. Medical documentation of *one* or more of the following:

1. Delusions or hallucinations;

2. Disorganized thinking (speech); or

3. Grossly disorganized behavior or catatonia.

AND

B. Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 12.00F):

1. Understand, remember, or apply information (see 12.00E1).

2. Interact with others (see 12.00E2).

3. Concentrate, persist, or maintain pace (see 12.00E3).

4. Adapt or manage oneself (see 12.00E4).

OR

C. Your mental disorder in this listing category is "serious and persistent;" that is, you have a medically documented history of the existence of the disorder over a period of at least 2 years, and there is evidence of both:

1. Medical treatment, mental health therapy, psychosocial support(s), or a highly structured setting(s) that is ongoing and that diminishes the symptoms and signs of your mental disorder (see 12.00G2b); *and*

2. Marginal adjustment, that is, you have minimal capacity to adapt to changes in your environment or to demands that are not already part of your daily life (see 12.00G2c).

12.04 *Depressive, bipolar and related disorders* (see 12.00B3), satisfied by A and B, or A and C:

A. Medical documentation of the requirements of paragraph 1 or 2:

1. Depressive disorder, characterized by *five* or more of the following:

a. Depressed mood;

b. Diminished interest in almost all activities;

c. Appetite disturbance with change in weight;

d. Sleep disturbance;

e. Observable psychomotor agitation or retardation;

f. Decreased energy;

g. Feelings of guilt or worthlessness;

h. Difficulty concentrating or thinking; or

i. Thoughts of death or suicide.

2. Bipolar disorder, characterized by *three* or more of the following:

a. Pressured speech;

b. Flight of ideas;

c. Inflated self-esteem;

d. Decreased need for sleep;

e. Distractibility;

f. Involvement in activities that have a high probability of painful consequences that are not recognized; or

g. Increase in goal-directed activity or psychomotor agitation.

AND

B. Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 12.00F):

1. Understand, remember, or apply information (see 12.00E1).

2. Interact with others (see 12.00E2).

3. Concentrate, persist, or maintain pace (see 12.00E3).

4. Adapt or manage oneself (see 12.00E4).

OR

C. Your mental disorder in this listing category is "serious and persistent;" that is, you have a medically documented history of the existence of the disorder over a period of at least 2 years, and there is evidence of both:

1. Medical treatment, mental health therapy, psychosocial support(s), or a highly structured setting(s) that is ongoing and that diminishes the symptoms and signs of your mental disorder (see 12.00G2b); *and*

2. Marginal adjustment, that is, you have minimal capacity to adapt to changes in your environment or to demands that are not already part of your daily life (see 12.00G2c).

12.05 *Intellectual disorder* (see 12.00B4), satisfied by A or B:

A. Satisfied by 1, 2, and 3 (see 12.00H):

1. Significantly subaverage general intellectual functioning evident in your cognitive inability to function at a level required to participate in standardized testing of intellectual functioning; and

2. Significant deficits in adaptive functioning currently manifested by your dependence upon others for personal needs (for example, toileting, eating, dressing, or bathing); and

3. The evidence about your current intellectual and adaptive functioning and about the history of your disorder demonstrates or supports the conclusion that the disorder began prior to your attainment of age 22.

OR

B. Satisfied by 1, 2, and 3 (see 12.00H):

1. Significantly subaverage general intellectual functioning evidenced by a or b:

a. A full scale (or comparable) IQ score of 70 or below on an individually administered standardized test of general intelligence; or

b. A full scale (or comparable) IQ score of 71–75 accompanied by a verbal or performance IQ score (or comparable part score) of 70 or below on an individually administered standardized test of general intelligence; and

2. Significant deficits in adaptive functioning currently manifested by extreme limitation of one, or marked limitation of two, of the following areas of mental functioning:

a. Understand, remember, or apply information (see 12.00E1); or

b. Interact with others (see 12.00E2); or

c. Concentrate, persist, or maintain pace (see 12.00E3); or

d. Adapt or manage oneself (see 12.00E4); and

3. The evidence about your current intellectual and adaptive functioning and about the history of your disorder demonstrates or supports the conclusion that the disorder began prior to your attainment of age 22.

12.06 *Anxiety and obsessive-compulsive disorders* (see 12.00B5), satisfied by A and B, or A and C:

A. Medical documentation of the requirements of paragraph 1, 2, or 3:

1. Anxiety disorder, characterized by *three* or more of the following;

a. Restlessness;

b. Easily fatigued;

c. Difficulty concentrating;

d. Irritability;

e. Muscle tension; or

f. Sleep disturbance.

2. Panic disorder or agoraphobia, characterized by *one* or both:

a. Panic attacks followed by a persistent concern or worry about additional panic attacks or their consequences; or

b. Disproportionate fear or anxiety about at least two different situations (for example, using public transportation, being in a crowd, being in a line, being outside of your home, being in open spaces).

3. Obsessive-compulsive disorder, characterized by *one* or both:

a. Involuntary, time-consuming preoccupation with intrusive, unwanted thoughts; or

b. Repetitive behaviors aimed at reducing anxiety.

AND

B. Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 12.00F):

1. Understand, remember, or apply information (see 12.00E1).

2. Interact with others (see 12.00E2).

3. Concentrate, persist, or maintain pace (see 12.00E3).

4. Adapt or manage oneself (see 12.00E4).

OR

C. Your mental disorder in this listing category is "serious and persistent;" that is, you have a medically documented history of the existence of the disorder over a period of at least 2 years, and there is evidence of both:

1. Medical treatment, mental health therapy, psychosocial support(s), or a highly structured setting(s) that is ongoing and that diminishes the symptoms and signs of your mental disorder (see 12.00G2b); *and*

2. Marginal adjustment, that is, you have minimal capacity to adapt to changes in your environment or to demands that are not already part of your daily life (see 12.00G2c).

12.07 *Somatic symptom and related disorders* (see 12.00B6), satisfied by A and B:

A. Medical documentation of *one* or more of the following:

1. Symptoms of altered voluntary motor or sensory function that are not better explained by another medical or mental disorder;

2. One or more somatic symptoms that are distressing, with excessive thoughts, feelings, or behaviors related to the symptoms; or

3. Preoccupation with having or acquiring a serious illness without significant symptoms present.

AND

B. Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 12.00F):

1. Understand, remember, or apply information (see 12.00E1).

2. Interact with others (see 12.00E2).

3. Concentrate, persist, or maintain pace (see 12.00E3).

4. Adapt or manage oneself (see 12.00E4).

12.08 *Personality and impulse-control disorders* (see 12.00B7), satisfied by A and B:

A. Medical documentation of a pervasive pattern of *one* or more of the following:

1. Distrust and suspiciousness of others;

2. Detachment from social relationships;

3. Disregard for and violation of the rights of others;

4. Instability of interpersonal relationships;

5. Excessive emotionality and attention seeking;

6. Feelings of inadequacy;

7. Excessive need to be taken care of;

8. Preoccupation with perfectionism and orderliness; or

9. Recurrent, impulsive, aggressive behavioral outbursts.

AND

B. Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 12.00F):

1. Understand, remember, or apply information (see 12.00E1).

2. Interact with others (see 12.00E2).

3. Concentrate, persist, or maintain pace (see 12.00E3).

4. Adapt or manage oneself (see 12.00E4).

12.09 [Reserved]

12.10 *Autism spectrum disorder* (see 12.00B8), satisfied by A and B:

A. Medical documentation of *both* of the following:

1. Qualitative deficits in verbal communication, nonverbal communication, and social interaction; and

2. Significantly restricted, repetitive patterns of behavior, interests, or activities.

AND

B. Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 12.00F):

1. Understand, remember, or apply information (see 12.00E1).

2. Interact with others (see 12.00E2).

3. Concentrate, persist, or maintain pace (see 12.00E3).

4. Adapt or manage oneself (see 12.00E4).

12.11 *Neurodevelopmental disorders* (see 12.00B9), satisfied by A and B:

A. Medical documentation of the requirements of paragraph 1, 2, or 3:

1. *One* or both of the following:

a. Frequent distractibility, difficulty sustaining attention, and difficulty organizing tasks; or

b. Hyperactive and impulsive behavior (for example, difficulty remaining seated, talking excessively, difficulty waiting, appearing restless, or behaving as if being "driven by a motor").

2. Significant difficulties learning and using academic skills; or

3. Recurrent motor movement or vocalization.

AND

B. Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 12.00F):

1. Understand, remember, or apply information (see 12.00E1).

2. Interact with others (see 12.00E2).

3. Concentrate, persist, or maintain pace (see 12.00E3).

4. Adapt or manage oneself (see 12.00E4).

12.12 [Reserved]

12.13 *Eating disorders* (see 12.00B10), satisfied by A and B:

A. Medical documentation of a persistent alteration in eating or eating-related behavior that results in a change in consumption or absorption of food and that significantly impairs physical or psychological health.

AND

B. Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 12.00F):

1. Understand, remember, or apply information (see 12.00E1).

2. Interact with others (see 12.00E2).

3. Concentrate, persist, or maintain pace (see 12.00E3).

4. Adapt or manage oneself (see 12.00E4).

12.15 *Trauma- and stressor-related disorders* (see 12.00B11), satisfied by A and B, or A and C:

A. Medical documentation of *all* of the following:

1. Exposure to actual or threatened death, serious injury, or violence;

2. Subsequent involuntary re-experiencing of the traumatic event (for example, intrusive memories, dreams, or flashbacks);

3. Avoidance of external reminders of the event;

4. Disturbance in mood and behavior; and

5. Increases in arousal and reactivity (for example, exaggerated startle response, sleep disturbance).

AND

B. Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 12.00F):

1. Understand, remember, or apply information (see 12.00E1).

2. Interact with others (see 12.00E2).

3. Concentrate, persist, or maintain pace (see 12.00E3).

4. Adapt or manage oneself (see 12.00E4).

OR

C. Your mental disorder in this listing category is "serious and persistent;" that is, you have a medically documented history of the existence of the disorder over a period of at least 2 years, and there is evidence of both:

1. Medical treatment, mental health therapy, psychosocial support(s), or a highly structured setting(s) that is ongoing and that diminishes the symptoms and signs of your mental disorder (see 12.00G2b); *and*

2. Marginal adjustment, that is, you have minimal capacity to adapt to changes in your environment or to demands that are not already part of your daily life (see 12.00G2c).

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Part B

* * * * *

112.00 Mental Disorders

A. *How are the listings for mental disorders for children arranged, and what do they require?*

1. The listings for mental disorders for children are arranged in 12 categories: neurocognitive disorders (112.02); schizophrenia spectrum and other psychotic disorders (112.03); depressive, bipolar and related disorders (112.04); intellectual disorder (112.05); anxiety and obsessive-compulsive disorders (112.06); somatic symptom and related disorders (112.07); personality and impulse-control disorders (112.08); autism spectrum disorder (112.10); neurodevelopmental disorders (112.11); eating disorders (112.13); developmental disorders in infants and toddlers (112.14); and trauma- and stressor-related disorders (112.15). All of these listings, with the exception of 112.14, apply to children from age three to attainment of age 18. Listing 112.14 is for children from birth to attainment of age 3.

2. Listings 112.07, 112.08, 112.10, 112.11, 112.13, and 112.14 have two paragraphs, designated A and B; your mental disorder must satisfy the requirements of both paragraphs A and B. Listings 112.02, 112.03, 112.04, 112.06, and 112.15 have three paragraphs, designated A, B, and C; your mental disorder must satisfy the requirements of both paragraphs A and B, or the requirements of both paragraphs A and C. Listing 112.05 has two paragraphs that are unique to that listing (see 112.00A3); your mental disorder must satisfy the requirements of either paragraph A or paragraph B.

a. Paragraph A of each listing (except 112.05) includes the medical criteria that must be present in your medical evidence.

b. Paragraph B of each listing (except 112.05) provides the functional criteria we assess to evaluate how your mental disorder limits your functioning. For children ages 3 to 18, these criteria represent the areas of mental functioning a child uses to perform age-appropriate activities. They are: understand, remember, or apply information; interact with others; concentrate, persist, or maintain pace; and adapt or manage oneself. (See 112.00I for a discussion of the criteria for children from birth to attainment of age 3 under 112.14.) We will determine the degree to which your medically determinable mental impairment affects the four areas of mental functioning and your ability to function age-appropriately in a manner comparable to that of other children your age who do not have impairments. (Hereinafter, the words "age-appropriately" incorporate the qualifying statement, "in a manner comparable to that of other children your age who do not have impairments.") To satisfy the paragraph B criteria, your mental disorder must result in "extreme" limitation of one, or "marked" limitation of two, of the four areas of mental functioning. (When we refer to "paragraph B criteria" or "area[s] of mental functioning" in the introductory text of this body system, we mean the criteria in paragraph B of every listing except 112.05 and 112.14.)

c. Paragraph C of listings 112.02, 112.03, 112.04, 112.06, and 112.15 provides the criteria we use to evaluate "serious and persistent mental disorders." To satisfy the paragraph C criteria, your mental disorder must be "serious and persistent"; that is, there must be a medically documented history of the existence of the disorder over a period of at least 2 years, and evidence that satisfies the criteria in both C1 and C2 (see 112.00G). (When we refer to "paragraph C" or "the paragraph C criteria" in the introductory text of this body system, we mean the criteria in paragraph C of listings 112.02, 112.03, 112.04, 112.06, and 112.15.)

3. Listing 112.05 has two paragraphs, designated A and B, that apply to only intellectual disorder. Each paragraph requires that you have significantly subaverage general intellectual functioning and significant deficits in current adaptive functioning.

B. *Which mental disorders do we evaluate under each listing category for children?*

1. *Neurocognitive disorders (112.02).*

a. These disorders are characterized in children by a clinically significant deviation in normal cognitive development or by a decline in cognitive functioning. Symptoms and signs may include, but are not limited to, disturbances in memory, executive functioning (that is, higher-level cognitive processes; for example, regulating attention, planning, inhibiting responses, decision-making), visual-spatial functioning, language and speech, perception, insight, and judgment.

b. Examples of disorders that we evaluate in this category include major neurocognitive disorder; mental impairments resulting from medical conditions such as a metabolic disease (for example, juvenile Tay-Sachs disease), human immunodeficiency virus infection, vascular malformation, progressive brain tumor, or traumatic brain injury; or substance-induced cognitive disorder associated with drugs of abuse, medications, or toxins. (We evaluate neurological disorders under that body system (see 111.00). We evaluate cognitive impairments that result from neurological disorders under 112.02 if they do not satisfy the requirements in 111.00. We evaluate catastrophic genetic disorders under listings in 110.00, 111.00, or 112.00, as appropriate. We evaluate genetic disorders that are not catastrophic under the affected body system(s).)

c. This category does not include the mental disorders that we evaluate under intellectual disorder (112.05), autism spectrum disorder (112.10), and neurodevelopmental disorders (112.11).

2. *Schizophrenia spectrum and other psychotic disorders (112.03).*

a. These disorders are characterized by delusions, hallucinations, disorganized speech, or grossly disorganized or catatonic behavior, causing a clinically significant decline in functioning. Symptoms and signs may include, but are not limited to, inability to initiate and persist in goal-directed activities, social withdrawal, flat or inappropriate affect, poverty of thought and speech, loss of interest or pleasure, disturbances of mood, odd beliefs and mannerisms, and paranoia.

b. Examples of disorders that we evaluate in this category include schizophrenia, schizoaffective disorder, delusional disorder, and psychotic disorder due to another medical condition.

3. *Depressive, bipolar and related disorders (112.04).*

a. These disorders are characterized by an irritable, depressed, elevated, or expansive mood, or by a loss of interest or pleasure in all or almost all activities, causing a clinically significant decline in functioning. Symptoms and signs may include, but are not limited to, feelings of hopelessness or guilt, suicidal ideation, a clinically significant change in body weight or appetite, sleep disturbances, an increase or decrease in energy, psychomotor abnormalities, disturbed concentration, pressured speech, grandiosity, reduced impulse control, sadness, euphoria, and social withdrawal. Depending on a child's age and developmental stage, certain features, such as somatic complaints, irritability, anger, aggression, and social withdrawal may be more commonly present than other features.

b. Examples of disorders that we evaluate in this category include bipolar disorders (I or II), cyclothymic disorder, disruptive mood dysregulation disorder, major depressive disorder, persistent depressive disorder (dysthymia), and bipolar or depressive disorder due to another medical condition.

4. *Intellectual disorder (112.05).*

a. This disorder is characterized by significantly subaverage general intellectual functioning and significant deficits in current adaptive functioning. Signs may include, but are not limited to, poor conceptual, social, or practical skills evident in your adaptive functioning.

b. The disorder that we evaluate in this category may be described in the evidence as intellectual disability, intellectual developmental disorder, or historically used terms such as "mental retardation."

c. This category does not include the mental disorders that we evaluate under neurocognitive disorders (112.02), autism spectrum disorder (112.10), or neurodevelopmental disorders (112.11).

5. *Anxiety and obsessive-compulsive disorders (112.06).*

a. These disorders are characterized by excessive anxiety, worry, apprehension, and fear, or by avoidance of feelings, thoughts, activities, objects, places, or people. Symptoms and signs may include, but are not limited to, restlessness, difficulty concentrating, hyper-vigilance, muscle tension, sleep disturbance, fatigue, panic attacks, obsessions and compulsions, constant thoughts and fears about safety, and frequent physical complaints. Depending on a child's age and developmental stage, other features may also include refusal to go to school, academic failure, frequent stomachaches and other physical complaints, extreme worries about sleeping away from home, being overly clinging, and exhibiting tantrums at times of separation from caregivers.

b. Examples of disorders that we evaluate in this category include separation anxiety disorder, social anxiety disorder, panic disorder, generalized anxiety disorder, agoraphobia, and obsessive-compulsive disorder.

c. This category does not include the mental disorders that we evaluate under trauma- and stressor-related disorders (112.15).

6. *Somatic symptom and related disorders (112.07).*

a. These disorders are characterized by physical symptoms or deficits that are not intentionally produced or feigned, and that, following clinical investigation, cannot be fully explained by a general medical condition, another mental disorder, the direct effects of a substance, or a culturally sanctioned behavior or experience. Symptoms and signs may include, but are not limited to, pain and other abnormalities of sensation, gastrointestinal symptoms, fatigue, abnormal motor movement, pseudoseizures, and pseudoneurological symptoms, such as blindness or deafness.

b. Examples of disorders that we evaluate in this category include somatic symptom disorder and conversion disorder.

7. *Personality and impulse-control disorders (112.08).*

a. These disorders are characterized by enduring, inflexible, maladaptive, and pervasive patterns of behavior. Onset may occur in childhood but more typically occurs in adolescence or young adulthood. Symptoms and signs may include, but are not limited to, patterns of distrust, suspiciousness, and odd beliefs; social detachment, discomfort, or avoidance; hypersensitivity to negative evaluation; an excessive need to be taken care of; difficulty making independent decisions; a preoccupation with orderliness, perfectionism, and control; and inappropriate, intense, impulsive anger and behavioral expression grossly out of proportion to any external provocation or psychosocial stressors.

b. Examples of disorders that we evaluate in this category include paranoid, schizoid, schizotypal, borderline, avoidant, dependent, obsessive-compulsive personality disorders, and intermittent explosive disorder.

8. *Autism spectrum disorder (112.10).*

a. These disorders are characterized by qualitative deficits in the development of reciprocal social interaction, verbal and nonverbal communication skills, and symbolic or imaginative play; restricted repetitive and stereotyped patterns of behavior, interests, and activities; and stagnation of development or loss of acquired skills. Symptoms and signs may include, but are not limited to, abnormalities and unevenness in the development of cognitive skills; unusual responses to sensory stimuli; and behavioral difficulties, including hyperactivity, short attention span, impulsivity, aggressiveness, or self-injurious actions.

b. Examples of disorders that we evaluate in this category include autism spectrum disorder with or without accompanying intellectual impairment, and autism spectrum disorder with or without accompanying language impairment.

c. This category does not include the mental disorders that we evaluate under neurocognitive disorders (112.02), intellectual disorder (112.05), and neurodevelopmental disorders (112.11).

9. *Neurodevelopmental disorders (112.11).*

a. These disorders are characterized by onset during the developmental period, that is, during childhood or adolescence, although sometimes they are not diagnosed until adulthood. Symptoms and signs may include, but are not limited to, underlying abnormalities in cognitive processing (for example, deficits in learning and applying verbal or nonverbal information, visual perception, memory, or a combination of these); deficits in attention or impulse control; low frustration tolerance; excessive or poorly planned motor activity; difficulty with organizing (time, space, materials, or tasks); repeated accidental injury; and deficits in social skills. Symptoms and signs specific to tic disorders include sudden, rapid, recurrent, non-rhythmic, motor movement or vocalization.

b. Examples of disorders that we evaluate in this category include specific learning disorder, borderline intellectual functioning, and tic disorders (such as Tourette syndrome).

c. This category does not include the mental disorders that we evaluate under neurocognitive disorders (112.02), autism spectrum disorder (112.10), or personality and impulse-control disorders (112.08).

10. *Eating disorders (112.13).*

a. These disorders are characterized in young children by persistent eating of nonnutritive substances or repeated episodes of regurgitation and re-chewing of food, or by persistent failure to consume adequate nutrition by mouth. In adolescence, these disorders are characterized by disturbances in eating behavior and preoccupation with, and excessive self-evaluation of, body weight and shape. Symptoms and signs may include, but are not limited to, failure to make expected weight gains; restriction of energy consumption when compared with individual requirements; recurrent episodes of binge eating or behavior intended to prevent weight gain, such as self-induced vomiting, excessive exercise, or misuse of laxatives; mood disturbances, social withdrawal, or irritability; amenorrhea; dental problems; abnormal laboratory findings; and cardiac abnormalities.

b. Examples of disorders that we evaluate in this category include anorexia nervosa, bulimia nervosa, binge-eating disorder, and avoidant/restrictive food disorder.

11. *Developmental disorders in infants and toddlers (112.14).*

a. Developmental disorders are characterized by a delay or deficit in the development of age-appropriate skills, or a loss of previously acquired skills, involving motor planning and control, learning, relating and communicating, and self-regulating.

b. Examples of disorders that we evaluate in this category include developmental coordination disorder, separation anxiety disorder, autism spectrum disorder, and regulation disorders of sensory processing (difficulties in regulating emotions, behaviors, and motor abilities in response to sensory stimulation). Some infants and toddlers may have only a general diagnosis of "developmental delay."

c. This category does not include eating disorders related to low birth weight and failure to thrive, which we evaluate under that body system (100.00).

12. *Trauma- and stressor-related disorders (112.15).*

a. These disorders are characterized by experiencing or witnessing a traumatic or stressful event, or learning of a traumatic event occurring to a close family member or close friend, and the psychological aftermath of clinically significant effects on functioning. Symptoms and signs may include, but are not limited to, distressing memories, dreams, and flashbacks related to the trauma or stressor; avoidant or withdrawn behavior; constriction of play and significant activities; increased frequency of negative emotional states (for example, fear, sadness) or reduced expression of positive emotions (for example, satisfaction, affection); anxiety; irritability; aggression; exaggerated startle response; difficulty concentrating; sleep disturbance; and a loss of previously acquired developmental skills.

b. Examples of disorders that we evaluate in this category include posttraumatic stress disorder, reactive attachment disorder, and other specified trauma- and stressor-related disorders (such as adjustment-like disorders with prolonged duration without prolonged duration of stressor).

c. This category does not include the mental disorders that we evaluate under anxiety and obsessive-compulsive disorders (112.06), and cognitive impairments that result from neurological disorders, such as a traumatic brain injury, which we evaluate under neurocognitive disorders (112.02).

C. *What evidence do we need to evaluate your mental disorder?*

1. *General.* We need evidence from an acceptable medical source to establish that you have a medically determinable mental disorder. We also need evidence to assess the severity of your mental disorder and its effects on your ability to function age-appropriately. We will determine the extent and kinds of evidence we need from medical and non-medical sources based on the individual facts about your disorder. For additional evidence requirements for intellectual disorder (112.05), see 112.00H. For our basic rules on evidence, see §§ 416.912, 416.913, and 416.920b of this chapter. For our rules on evaluating opinion evidence, see § 416.927 of this chapter. For our rules on evidence about your symptoms, see § 416.929 of this chapter.

2. *Evidence from medical sources.* We will consider all relevant medical evidence about your disorder from your physician, psychologist, and other medical sources, which include health care providers such as physician assistants, psychiatric nurse practitioners, licensed clinical social workers, and clinical mental health counselors. Evidence from your medical sources may include:

a. Your reported symptoms.

b. Your developmental, medical, psychiatric, and psychological history.

c. The results of physical or mental status examinations, structured clinical interviews, psychiatric or psychological rating scales, measures of adaptive functioning, or other clinical findings.

d. Developmental assessments, psychological testing, imaging results, or other laboratory findings.

e. Your diagnosis.

f. The type, dosage, and beneficial effects of medications you take.

g. The type, frequency, duration, and beneficial effects of therapy you receive.

h. Side effects of medication or other treatment that limit your ability to function.

i. Your clinical course, including changes in your medication, therapy, or other treatment, and the time required for therapeutic effectiveness.

j. Observations and descriptions of how you function during examinations or therapy.

k. Information about sensory, motor, or speech abnormalities, or about your cultural background (for example, language or customs) that may affect an evaluation of your mental disorder.

l. The expected duration of your symptoms and signs and their effects on your ability to function age-appropriately, both currently and in the future.

3. *Evidence from you and people who know you.* We will consider all relevant evidence about your mental disorder and your daily functioning that we receive from you and from people who know you. If you are too young or unable to describe your symptoms and your functioning, we will ask for a description from the person who is most familiar with you. We will ask about your symptoms, your daily functioning, and your medical treatment. We will ask for information from third parties who can tell us about your mental disorder, but we must have permission to do so. This evidence may include information from your family, caregivers, teachers, other educators, neighbors, clergy, case managers, social workers, shelter staff, or other community support and outreach workers. We will consider whether your statements and the statements from third parties are consistent with the medical and other evidence we have.

4. *Evidence from early intervention programs, school, vocational training, work, and work-related programs.*

a. *Early intervention programs.* You may receive services in an Early Intervention Program (EIP) to help you with your developmental needs. If so, we will consider information from your Individualized Family Service Plan (IFSP) and the early intervention specialists who help you.

b. *School.* You may receive special education or related services at your preschool or school. If so, we will try to obtain information from your school sources when we need it to assess how your mental disorder affects your ability to function. Examples of this information include your Individualized Education Programs (IEPs), your Section 504 plans, comprehensive evaluation reports, school-related therapy progress notes, information from your teachers about how you function in a classroom setting, and information from special educators, nurses, school psychologists, and occupational, physical, and speech/language therapists about any special education services or accommodations you receive at school.

c. *Vocational training, work, and work-related programs.* You may have recently participated in or may still be participating in vocational training, work-related programs, or work activity. If so, we will try to obtain information from your training program or your employer when we need it to assess how your mental disorder affects your ability to function. Examples of this information include training or work evaluations, modifications to your work duties or work schedule, and any special supports or accommodations you have required or now require in order to work. If you have worked or are working through a community mental health program, sheltered or supported work program, rehabilitation program, or transitional employment program, we will consider the type and degree of support you have received or are receiving in order to work (see 112.00D).

5. *Need for longitudinal evidence.*

a. *General.* Longitudinal medical evidence can help us learn how you function over time, and help us evaluate any variations in the level of your functioning. We will request longitudinal evidence of your mental disorder when your medical providers have records concerning you and your mental disorder over a period of months or perhaps years (see § 416.912(d) of this chapter).

b. *Non-medical sources of longitudinal evidence.* Certain situations, such as chronic homelessness, may make it difficult for you to provide longitudinal medical evidence. If you have a severe mental disorder, you will probably have evidence of its effects on your functioning over time, even if you have not had an ongoing relationship with the medical community or are not currently receiving treatment. For example, family members, caregivers, teachers, neighbors, former employers, social workers, case managers, community support staff, outreach workers, or government agencies may be familiar with your mental health history. We will ask for information from third parties who can tell us about your mental disorder, but you must give us permission to do so.

c. *Absence of longitudinal evidence.* In the absence of longitudinal evidence, we will use current objective medical evidence and all other relevant evidence available to us in your case record to evaluate your mental disorder. If we purchase a consultative examination to document your disorder, the record will include the results of that examination (see § 416.914 of this chapter). We will take into consideration your medical history, symptoms, clinical and laboratory findings, and medical source opinions. If you do not have longitudinal evidence, the current evidence alone may not be sufficient or appropriate to show that you have a disorder that meets the criteria of one of the mental disorders listings. In that case, we will follow the rules in 112.00K.

6. *Evidence of functioning in unfamiliar situations or supportive situations.*

a. *Unfamiliar situations.* We recognize that evidence about your functioning in unfamiliar situations does not necessarily show how you would function on a sustained basis in a school or other age-appropriate setting. In one-time, time-limited, or other unfamiliar situations, you may function differently than you do in familiar situations. In unfamiliar situations, you may appear more, or less, limited than you do on a daily basis and over time.

b. *Supportive situations.* Your ability to function in settings that are highly structured, or that are less demanding or more supportive than settings in which children your age without impairments typically function, does not necessarily demonstrate your ability to function age-appropriately.

c. *Our assessment.* We must assess your ability to function age-appropriately by evaluating all the evidence, such as reports about your functioning from third parties who are familiar with you, with an emphasis on how well you can initiate, sustain, and complete age-appropriate activities despite your impairment(s), compared to other children your age who do not have impairments.

D. *How do we consider psychosocial supports, structured settings, living arrangements, and treatment when we evaluate the functioning of children?*

1. *General.* Psychosocial supports, structured settings, and living arrangements, including assistance from your family or others, may help you by reducing the demands made on you. In addition, treatment you receive may reduce your symptoms and signs and possibly improve your functioning, or may have side effects that limit your functioning. Therefore, when we evaluate the effects of your mental disorder and rate the limitation of your areas of mental functioning, we will consider the kind and extent of supports you receive, the characteristics of any structured setting in which you spend your time (compared to children your age without impairments), and the effects of any treatment. This evidence may come from reports about your functioning from third parties who are familiar with you, and other third-party statements or information. Following are some examples of the supports you may receive:

a. You receive help from family members or other people in ways that children your age without impairments typically do not need in order to function age-appropriately. For example, an aide may accompany you on the school bus to help you control your actions or to monitor you to ensure you do not injure yourself or others.

b. You receive one-on-one assistance in your classes every day; or you have a full-time personal aide who helps you to function in your classroom; or you are a student in a self-contained classroom; or you attend a separate or alternative school where you receive special education services.

c. You participate in a special education or vocational training program, or a psychosocial rehabilitation day treatment or community support program, where you receive training in daily living and entry-level work skills.

d. You participate in a sheltered, supported, or transitional work program, or in a competitive employment setting with the help of a job coach or supervisor.

e. You receive comprehensive "24/7 wrap-around" mental health services while living in a group home or transitional housing, while participating in a semi-independent living program, or while living at home.

f. You live in a residential school, hospital, or other institution with 24-hour care.

g. You receive assistance from a crisis response team, social workers, or community mental health workers who help you meet your physical needs, and who may also represent you in dealings with government or community social services.

2. *How we consider different levels of support and structure in psychosocial rehabilitation programs.*

a. Psychosocial rehabilitation programs are based on your specific needs. Therefore, we cannot make any assumptions about your mental disorder based solely on the fact that you are associated with such a program. We must know the details of the program(s) in which you are involved and the pattern(s) of your involvement over time.

b. The kinds and levels of supports and structures in psychosocial rehabilitation programs typically occur on a scale of "most restrictive" to "least restrictive." Participation in a psychosocial rehabilitation program at the most restrictive level would suggest greater limitation of your areas of mental functioning than would participation at a less restrictive level. The length of time you spend at different levels in a program also provides information about your functioning. For example, you could begin participation at the most restrictive crisis intervention level but gradually improve to the point of readiness for a lesser level of support and structure and, if you are an older adolescent, possibly some form of employment.

3. *How we consider the help or support you receive.*

a. We will consider the complete picture of your daily functioning, including the kinds, extent, and frequency of help and support you receive, when we evaluate your mental disorder and determine whether you are able to use the four areas of mental functioning age-appropriately. The fact that you have done, or currently do, some routine activities without help or support does not necessarily mean that you do not have a mental disorder or that you are not disabled. For example, you may be able to take age-appropriate care of your personal needs, or you may be old enough and able to cook, shop, and take public transportation. You may demonstrate both strengths and deficits in your daily functioning.

b. You may receive various kinds of help and support from others that enable you to do many things that, because of your mental disorder, you might not be able to do independently. Your daily functioning may depend on the special contexts in which you function. For example, you may spend your time among only familiar people or surroundings, in a simple and steady routine or an unchanging environment, or in a highly structured classroom or alternative school.

However, this does not necessarily show whether you would function age-appropriately without those supports or contexts. (See 112.00H for further discussion of these issues regarding significant deficits in adaptive functioning for the purpose of 112.05.)

4. *How we consider treatment.* We will consider the effect of any treatment on your functioning when we evaluate your mental disorder. Treatment may include medication(s), psychotherapy, or other forms of intervention, which you receive in a doctor's office, during a hospitalization, or in a day program at a hospital or outpatient treatment program. With treatment, you may not only have your symptoms and signs reduced, but may also be able to function age-appropriately. However, treatment may not resolve all of the limitations that result from your mental disorder, and the medications you take or other treatment you receive for your disorder may cause side effects that limit your mental or physical functioning. For example, you may experience drowsiness, blunted affect, memory loss, or abnormal involuntary movements.

E. *What are the paragraph B criteria for children age 3 to the attainment of age 18?*

1. *Understand, remember, or apply information (paragraph B1).* This area of mental functioning refers to the abilities to learn, recall, and use information to perform age-appropriate activities. Examples include: Understanding and learning terms, instructions, procedures; following one- or two-step oral instructions to carry out a task; describing an activity to someone else; asking and answering questions and providing explanations; recognizing a mistake and correcting it; identifying and solving problems; sequencing multi-step activities; and using reason and judgment to make decisions. These examples illustrate the nature of the area of mental functioning. We do not require documentation of all of the examples. How you manifest this area of mental functioning and your limitations in using it depends, in part, on your age.

2. *Interact with others (paragraph B2).* This area of mental functioning refers to the abilities to relate to others age-appropriately at home, at school, and in the community. Examples include: Engaging in interactive play; cooperating with others; asking for help when needed; initiating and maintaining friendships; handling conflicts with others; stating own point of view; initiating or sustaining conversation; understanding and responding to social cues (physical, verbal, emotional); responding to requests, suggestions, criticism, correction, and challenges; and keeping social interactions free of excessive irritability, sensitivity, argumentativeness, or suspiciousness. These examples illustrate the nature of this area of mental functioning. We do not require documentation of all of the examples. How you manifest this area of mental functioning and your limitations in using it depends, in part, on your age.

3. *Concentrate, persist, or maintain pace (paragraph B3).* This area of mental functioning refers to the abilities to focus attention on activities and stay on task age-appropriately. Examples include: Initiating and performing an activity that you understand and know how to do; engaging in an activity at home or in school at an appropriate and consistent pace; completing tasks in a timely manner; ignoring or avoiding distractions while engaged in an activity or task; changing activities without being disruptive; engaging in an activity or task close to or with others without interrupting or distracting them; sustaining an ordinary routine and regular attendance at school; and engaging in activities at home, school, or in the community without needing an unusual amount of rest. These examples illustrate the nature of this area of mental functioning. We do not require documentation of all of the examples. How you manifest this area of mental functioning and your limitations in using it depends, in part, on your age.

4. *Adapt or manage oneself (paragraph B4).* This area of mental functioning refers to the abilities to regulate emotions, control behavior, and maintain well-being in age-appropriate activities and settings. Examples include: Responding to demands; adapting to changes; managing your psychologically based symptoms; distinguishing between acceptable and unacceptable performance in community- or school-related activities; setting goals; making plans independently of others; maintaining personal hygiene; and protecting yourself from harm and exploitation by others. These examples illustrate the nature of this area of mental functioning. We do not require documentation of all of the examples. How you manifest this area of mental functioning and your limitations in using it depends, in part, on your age.

F. *How do we use the paragraph B criteria to evaluate mental disorders in children?*

1. *General.* We use the paragraph B criteria to rate the degree of your limitations. We consider only the limitations that result from your mental disorder(s). We will determine whether you are able to use each of the paragraph B areas of mental functioning in age-appropriate activities in a manner comparable to that of other children your age who do not have impairments. We will consider, for example, the range of your activities and whether they are age-appropriate; how well you can initiate, sustain, and complete your activities; the kinds and frequency of help or supervision you receive; and the kinds of structured or supportive settings you need in order to function age-appropriately (see 112.00D).

2. *Degrees of limitation.* We evaluate the effects of your mental disorder on each of the four areas of mental functioning. To satisfy the paragraph B criteria, your mental disorder must result in extreme limitation of one, or marked limitation of two, paragraph B areas of mental functioning. See §§ 416.925(b)(2)(ii) and 416.926a(e) of this chapter for the definitions of the terms marked and extreme as they apply to children.

3. *Rating the limitations of your areas of mental functioning.*

a. *General.* We use all of the relevant medical and non-medical evidence in your case record to evaluate your mental disorder: The symptoms and signs of your disorder, the reported limitations in your activities, and any help and support you receive that is necessary for you to function. The medical evidence may include descriptors regarding the diagnostic stage or level of your disorder, such as "mild" or "moderate." Clinicians may use these terms to characterize your medical condition. However, these terms will not always be the same as the degree of your limitation in a paragraph B area of mental functioning.

b. *Areas of mental functioning in daily activities.* You use the same four areas of mental functioning in daily activities at home, at school, and in the community. With respect to a particular task or activity, you may have trouble using one or more of the areas. For example, you may have difficulty understanding and remembering what to do; or concentrating and staying on task long enough to do it; or engaging in the task or activity with other people; or trying to do the task without becoming frustrated and losing self-control. Information about your daily functioning in your activities at home, at school, or in your community can help us understand whether your mental disorder limits one or more of these areas; and, if so, whether it also affects your ability to function age-appropriately.

c. *Overall effect of limitations.* Limitation of an area of mental functioning reflects the overall degree to which your mental disorder interferes with that area. The degree of limitation does not necessarily reflect a specific type or number of activities, including activities of daily living, that you have difficulty doing. In addition, no single piece of information (including test results) can establish whether you have extreme or marked limitation of an area of mental functioning.

d. *Effects of support, supervision, structure on functioning.* The degree of limitation of an area of mental functioning also reflects the kind and extent of supports or supervision you receive (beyond what other children your age without impairments typically receive) and the characteristics of any structured setting where you spend your time, which enable you to function. The more extensive the support you need from others (beyond what is age-appropriate) or the more structured the setting you need in order to function, the more limited we will find you to be (see 112.00D).

e. *Specific instructions for paragraphs B1, B3, and B4.* For paragraphs B1, B3, and B4, the greatest degree of limitation of any part of the area of mental functioning directs the rating of limitation of that whole area of mental functioning.

(i) To do an age-appropriate activity, you must be able to understand *and* remember *and* apply information required by the activity. Similarly, you must be able to concentrate *and* persist *and* maintain pace in order to complete the activity, and adapt *and* manage yourself age-appropriately. Limitation in any one of these parts (understand *or* remember *or* apply; concentrate *or* persist *or* maintain pace; adapt *or* manage oneself) may prevent you from completing age-appropriate activities.

(ii) We will document the rating of limitation of the whole area of mental functioning, not each individual part. We will not add ratings of the parts together. For example, with respect to paragraph B3, if you have marked limitation in concentrating, but your limitations in persisting and maintaining pace do not rise to a marked level, we will find that you have marked limitation in the whole paragraph B3 area of mental functioning.

(iii) Marked limitation in more than one part of the same paragraph B area of mental functioning does not satisfy the requirement to have marked limitation in two paragraph B areas of mental functioning.

4. *How we evaluate mental disorders involving exacerbations and remissions.*

a. When we evaluate the effects of your mental disorder, we will consider how often you have exacerbations and remissions, how long they last, what causes your mental disorder to worsen or improve, and any other relevant information. We will assess whether your mental impairment(s) causes marked or extreme limitation of the affected paragraph B area(s) of mental functioning (see 112.00F2). We will consider whether you can use the area of mental functioning age-appropriately on a sustained basis. We will not find that you function age-appropriately solely because you have a period(s) of improvement (remission), or that you are disabled solely because you have a period of worsening (exacerbation), of your mental disorder.

b. If you have a mental disorder involving exacerbations and remissions, you may be able to use the four areas of mental functioning at home, at school, or in the community for a few weeks or months. Recurrence or worsening of symptoms and signs, however, can interfere enough to render you unable to function age-appropriately.

G. *What are the paragraph C criteria, and how do we use them to evaluate mental disorders in children age 3 to the attainment of age 18?*

1. *General.* The paragraph C criteria are an alternative to the paragraph B criteria under listings 112.02, 112.03, 112.04, 112.06, and 112.15. We use the paragraph C criteria to evaluate mental disorders that are "serious and persistent." In the paragraph C criteria, we recognize that mental health interventions may control the more obvious symptoms and signs of your mental disorder.

2. *Paragraph C criteria.*

a. We find a mental disorder to be "serious and persistent" when there is a medically documented history of the existence of the mental disorder in the listing category over a period of at least 2 years, and evidence shows that your disorder satisfies both C1 and C2.

b. The criterion in C1 is satisfied when the evidence shows that you rely, on an ongoing basis, upon medical treatment, mental health therapy, psychosocial support(s), or a highly structured setting(s), to diminish the symptoms and signs of your mental disorder (see 112.00D). We consider that you receive ongoing medical treatment when the medical evidence establishes that you obtain medical treatment with a frequency consistent with accepted medical practice for the type of treatment or evaluation required for your medical condition. We will consider periods of inconsistent treatment or lack of compliance with treatment that may result from your mental disorder. If the evidence indicates that the inconsistent treatment or lack of compliance is a feature of your mental disorder, and it has led to an exacerbation of your symptoms and signs, we will not use it as evidence to support a finding that you have not received ongoing medical treatment as required by this paragraph.

c. The criterion in C2 is satisfied when the evidence shows that, despite your diminished symptoms and signs, you have achieved only marginal adjustment. "Marginal adjustment" means that your adaptation to the requirements of daily life is fragile; that is, you have minimal capacity to adapt to changes in your environment or to demands that are not already part of your daily life. We will consider that you have achieved only marginal adjustment when the evidence shows that changes or increased demands have led to exacerbation of your symptoms and signs and to deterioration in your functioning; for example, you have become unable to function outside of your home or a more restrictive setting, without substantial psychosocial supports (see 112.00D). Such deterioration may have necessitated a significant change in medication or other treatment. Similarly, because of the nature of your mental disorder, evidence may document episodes of deterioration that have required you to be hospitalized or absent from school, making it difficult for you to sustain age-appropriate activity over time.

H. *How do we document and evaluate intellectual disorder under 112.05?*

1. *General.* Listing 112.05 is based on the two elements that characterize intellectual disorder for children up to age 18: Significantly subaverage general intellectual functioning and significant deficits in current adaptive functioning.

2. *Establishing significantly subaverage general intellectual functioning.*

a. *Definition.* Intellectual functioning refers to the general mental capacity to learn, reason, plan, solve problems, and perform other cognitive functions. Under 112.05A, we identify significantly subaverage general intellectual functioning by the cognitive inability to function at a level required to participate in standardized intelligence testing. Our findings under 112.05A are based on evidence from an acceptable medical source. Under 112.05B, we identify significantly subaverage general intellectual functioning by an IQ score(s) on an individually administered standardized test of general intelligence that meets program requirements and has a mean of 100 and a standard deviation of 15. A qualified specialist (see 112.00H2c) must administer the standardized intelligence testing.

b. *Psychometric standards.* We will find standardized intelligence test results usable for the purposes of 112.05B1 when the measure employed meets contemporary psychometric standards for validity, reliability, normative data, and scope of measurement; and a qualified specialist has individually administered the test according to all pre-requisite testing conditions.

c. *Qualified specialist.* A "qualified specialist" is currently licensed or certified at the independent level of practice in the State where the test was performed, and has the training and experience to administer, score, and interpret intelligence tests. If a psychological assistant or paraprofessional administered the test, a supervisory qualified specialist must interpret the test findings and co-sign the examination report.

d. *Responsibility for conclusions based on testing.* We generally presume that your obtained IQ score(s) is an accurate reflection of your general intellectual functioning, unless evidence in the record suggests otherwise. Examples of this evidence include: A statement from the test administrator indicating that your obtained score is not an accurate reflection of your general intellectual functioning, prior or internally inconsistent IQ scores, or information about your daily functioning. Only qualified specialists, Federal and State agency medical and psychological consultants, and other contracted medical and psychological experts may conclude that your obtained IQ score(s) is not an accurate reflection of your general intellectual functioning. This conclusion must be well supported by appropriate clinical and laboratory diagnostic techniques and must be based on relevant evidence in the case record, such as:

(i) The data obtained in testing;

(ii) Your developmental history, including when your signs and symptoms began;

(iii) Information about how you function on a daily basis in a variety of settings; and

(iv) Clinical observations made during the testing period, such as your ability to sustain attention, concentration, and effort; to relate appropriately to the examiner; and to perform tasks independently without prompts or reminders.

3. *Establishing significant deficits in adaptive functioning.*

a. *Definition.* Adaptive functioning refers to how you learn and use conceptual, social, and practical skills in dealing with common life demands. It is your typical functioning at home, at school, and in the community, alone or among others. Under 112.05A, we identify significant deficits in adaptive functioning based on your dependence on others to care for your personal needs, such as eating and bathing (grossly in excess of age-appropriate dependence). We will base our conclusions about your adaptive functioning on evidence from a variety of sources (see 112.00H3b) and not on your statements alone. Under 112.05B2, we identify significant deficits in adaptive functioning based on whether there is extreme limitation of one, or marked limitation of two, of the paragraph B criteria (see 112.00E; 112.00F).

b. *Evidence.* Evidence about your adaptive functioning may come from:

(i) Medical sources, including their clinical observations;

(ii) Standardized tests of adaptive functioning (see 112.00H3c);

(iii) Third party information, such as a report of your functioning from a family member or your caregiver;

(iv) School records;

(v) A teacher questionnaire;

(vi) Reports from employers or supervisors; and

(vii) Your own statements about how you handle all of your daily activities.

c. *Standardized tests of adaptive functioning.* We do not require the results of an individually administered standardized test of adaptive functioning. If your case record includes these test results, we will consider the results along with all other relevant evidence; however, we will use the guidelines in 112.00E and F to evaluate and determine the degree of your deficits in adaptive functioning, as required under 112.05B2.

d. *Standardized developmental assessments.* We do not require the results of standardized developmental assessments, which compare your level of development to the level typically expected for your chronological age. If your case record includes test results, we will consider the results along with all other relevant evidence. However, we will use the guidelines in 112.00E and F to evaluate and determine the degree of your deficits in adaptive functioning, as required under 112.05B2.

e. *How we consider common everyday activities.*

(i) The fact that you engage in common everyday activities, such as caring for your personal needs, preparing simple meals, or driving a car, will not always mean that you do not have deficits in adaptive functioning as required by 112.05B2. You may demonstrate both strengths and deficits in your adaptive functioning. However, a lack of deficits in one area does not negate the presence of deficits in another area. When we assess your adaptive functioning, we will consider all of your activities and your performance of them.

(ii) Our conclusions about your adaptive functioning rest on the quality of your daily activities and whether you do them age-appropriately. If you receive help in performing your activities, we need to know the kind, extent, and frequency of help you receive in order to perform them. We will not assume that your ability to do some common everyday activities, or to do some things without help or support, demonstrates that your mental disorder does not meet the requirements of 112.05B2. (See 112.00D regarding the factors we consider when we evaluate your functioning, including how we consider any help or support you receive.)

f. *How we consider work activity.* The fact that you have engaged in work activity, or that you work intermittently or steadily in a job commensurate with your abilities, will not always mean that you do not have deficits in adaptive functioning as required by 112.05B2. When you have engaged in work activity, we need complete information about the work, and about your functioning in the work activity and work setting, before we reach any conclusions about your adaptive functioning. We will consider all factors involved in your work history before concluding whether your impairment satisfies the criteria for intellectual disorder under 112.05B. We will consider your prior and current work history, if any, and various other factors influencing how you function. For example, we consider whether the work was in a supported setting, whether you required more supervision than other employees, how your job duties compared to others in the same job, how much time it took you to learn the job duties, and the reason the work ended, if applicable.

I. *What additional considerations do we use to evaluate developmental disorders of infants and toddlers?*

1. *General.* We evaluate developmental disorders from birth to attainment of age 3 under 112.14. We evaluate your ability to acquire and maintain the motor, cognitive, social/communicative, and emotional skills that you need to function age-appropriately. When we rate your impairment-related limitations for this listing (see §§ 416.925(b)(2)(ii) and 416.926a(e) of this chapter), we consider only limitations you have because of your developmental disorder. If you have a chronic illness or physical abnormality(ies), we will evaluate it under the affected body system, for example, the cardiovascular or musculoskeletal system.

2. *Age and typical development in early childhood.*

a. *Prematurity and age.* If you were born prematurely, we will use your corrected chronological age (CCA) for comparison. CCA is your chronological age adjusted by a period of gestational prematurity. CCA = (chronological age) − (number of weeks premature). If you have not attained age 1, we will correct your chronological age, using the same formula. If you are over age 1, we will decide whether to correct your chronological age, based on our judgment and all the facts of your case (see § 416.924b(b) of this chapter).

b. *Developmental assessment.* We will use the results from a standardized developmental assessment to compare your level of development with that typically expected for your chronological age. When there are no results from a comprehensive standardized developmental assessment in the case record, we need narrative developmental reports from your medical sources in sufficient detail to assess the limitations resulting from your developmental disorder.

c. *Variation.* When we evaluate your developmental disorder, we will consider the wide variation in the range of normal or typical development in early childhood. At the end of a recognized milestone period, new skills typically begin to emerge. If your new skills begin to emerge later than is typically expected, the timing of their emergence may or may not indicate that you have a developmental delay or deficit that can be expected to last for 1 year.

3. *Evidence.*

a. *Standardized developmental assessments.* We use standardized test reports from acceptable medical sources or from early intervention specialists, physical or occupational therapists, and other qualified professionals. Only the qualified professional who administers the test, Federal and State agency medical and psychological consultants, and other contracted medical and psychological experts may conclude that the assessment results are not an accurate reflection of your development. This conclusion must be well supported by appropriate clinical and laboratory diagnostic techniques and must be based on relevant evidence in the case record. If the assessment results are not an accurate reflection of your development, we may purchase a new developmental assessment. If the developmental assessment is inconsistent with other information in your case record, we will follow the guidelines in § 416.920b of this chapter.

b. *Narrative developmental reports.* A narrative developmental report is based on clinical observations, progress notes, and well-baby check-ups, and includes your developmental history, examination findings (with abnormal findings noted on repeated examinations), and an overall assessment of your development (that is, more than one or two isolated skills) by the medical source. Although medical sources may refer to screening test results as supporting evidence in the narrative developmental report, screening test results alone cannot establish a diagnosis or the severity of developmental disorder.

4. *What are the paragraph B criteria for 112.14?*

a. *General.* The paragraph B criteria for 112.14 are slightly different from the paragraph B criteria for the other listings. They are the developmental abilities that infants and toddlers use to acquire and maintain the skills needed to function age-appropriately. An infant or toddler is expected to use his or her developmental abilities to achieve a recognized pattern of milestones, over a typical range of time, in order to acquire and maintain the skills needed to function age-appropriately. We will find that your developmental disorder satisfies the requirements of 112.14 if it results in extreme limitation of one, or marked limitation of two, of the 112.14 paragraph B criteria. (See §§ 416.925(b)(2)(ii) and 416.926a(e) of this chapter for the definitions of the terms marked and extreme as they apply to children.)

b. *Definitions of the 112.14 paragraph B developmental abilities.*

(i) *Ability to plan and control motor movement.* This criterion refers to the developmental ability to plan, remember, and execute controlled motor movements by integrating and coordinating perceptual and sensory input with motor output. Using this ability develops gross and fine motor skills, and makes it possible for you to engage in age-appropriate symmetrical or alternating motor activities. You use this ability when, for example, you grasp and hold objects with one or both hands, pull yourself up to stand, walk without holding on, and go up and down stairs with alternating feet. These examples illustrate the nature of the developmental ability. We do not require documentation of all of the examples. How you manifest this developmental ability and your limitations in using it depends, in part, on your age.

(ii) *Ability to learn and remember.* This criterion refers to the developmental ability to learn by exploring the environment, engaging in trial-and-error experimentation, putting things in groups, understanding that words represent things, and participating in pretend play. Using this ability develops the skills that help you understand what things mean, how things work, and how you can make things happen. You use this ability when, for example, you show interest in objects that are new to you, imitate simple actions, name body parts, understand simple cause-and-effect relationships, remember simple directions, or figure out how to take something apart. These examples illustrate the nature of the developmental ability. We do not require documentation of all of the examples. How you manifest this developmental ability and your limitations in using it depends, in part, on your age.

(iii) *Ability to interact with others.* This criterion refers to the developmental ability to participate in reciprocal social interactions and relationships by communicating your feelings and intents through vocal and visual signals and exchanges; physical gestures and contact; shared attention and affection; verbal turn taking; and understanding and sending increasingly complex messages. Using this ability develops the social skills that make it possible for you to influence others (for example, by gesturing for a toy or saying "no" to stop an action); invite someone to interact with you (for example, by smiling or reaching); and draw someone's attention to what interests you (for example, by pointing or taking your caregiver's hand and leading that person). You use this ability when, for example, you use vocalizations to initiate and sustain a "conversation" with your caregiver; respond to limits set by an adult with words, gestures, or facial expressions; play alongside another child; or participate in simple group activities with adult help. These examples illustrate the nature of the developmental ability. We do not require documentation of all of the examples. How you manifest this developmental ability and your limitations in using it depends, in part, on your age.

(iv) *Ability to regulate physiological functions, attention, emotion, and behavior.* This criterion refers to the developmental ability to stabilize biological rhythms (for example, by developing an age-appropriate sleep/wake cycle); control physiological functions (for example, by achieving regular patterns of feeding); and attend, react, and adapt to environmental stimuli, persons, objects, and events (for example, by becoming alert to things happening around you and in relation to you, and responding without overreacting or underreacting). Using this ability develops the skills you need to regulate yourself and makes it possible for you to achieve and maintain a calm, alert, and organized physical and emotional state. You use this ability when, for example, you recognize your body's needs for food or sleep, focus quickly and pay attention to things that interest you, cry when you are hurt but become quiet when your caregiver holds you, comfort yourself with your favorite toy when you are upset, ask for help when something frustrates you, or refuse help from your caregiver when trying to do something for yourself. These examples illustrate the nature of the developmental ability. We do not require documentation of all of the examples. How you manifest this developmental ability and your limitations in using it depends, in part, on your age.

5. *Deferral of determination.*

a. *Full-term infants.* In the first few months of life, full-term infants typically display some irregularities in observable behaviors (for example, sleep cycles, feeding, responding to stimuli, attending to faces, self-calming), making it difficult to assess the presence, extent, and duration of a developmental disorder. When the evidence indicates that you may have a significant developmental delay, but there is insufficient evidence to make a determination, we will defer making a disability determination under 112.14 until you are at least 6 months old. This deferral will allow us to obtain a longitudinal medical history so that we can more accurately evaluate your developmental patterns and functioning over time. In most cases, when you are at least 6 months old, any developmental delay you may have can be better assessed, and you can undergo standardized developmental testing, if indicated.

b. *Premature infants.* When the evidence indicates that you may have a significant developmental delay, but there is insufficient evidence to make a determination, we will defer your case until you attain a CCA (see 112.00I2a) of at least 6 months in order to better evaluate your developmental delay.

c. *When we will not defer a determination.* We will not defer our determination if we have sufficient evidence to determine that you are disabled under 112.14 or any other listing, or that you have an impairment or combination of impairments that functionally equals the listings. In addition, we will not defer our determination if the evidence demonstrates that you are not disabled.

J. *How do we evaluate substance use disorders?* If we find that you are disabled and there is medical evidence in your case record establishing that you have a substance use disorder, we will determine whether your substance use disorder is a contributing factor material to the determination of disability (see § 416.935 of this chapter).

K. *How do we evaluate mental disorders that do not meet one of the mental disorders listings?*

1. These listings include only examples of mental disorders that we consider serious enough to result in marked and severe functional limitations. If your severe mental disorder does not meet the criteria of any of these listings, we will consider whether you have an impairment(s) that meets the criteria of a listing in another body system. You may have another impairment(s) that is secondary to your mental disorder. For example, if you have an eating disorder and develop a cardiovascular impairment because of it, we will evaluate your cardiovascular impairment under the listings for the cardiovascular body system.

2. If you have a severe medically determinable impairment(s) that does not meet a listing, we will determine whether your impairment(s) medically equals a listing (see § 416.926 of this chapter).

3. If your impairment(s) does not meet or medically equal a listing, we will consider whether you have an impairment(s) that functionally equals the listings (see § 416.926a of this chapter).

4. Although we present these alternatives in a specific sequence above, each represents listing-level severity, and we can evaluate your claim in any order. For example, if the factors of your case indicate that the combination of your impairments may functionally equal the listings, we may start with that analysis. We use the rules in § 416.994a of this chapter, as appropriate, when we decide whether you continue to be disabled.

112.01 Category of Impairments, Mental Disorders

112.02 *Neurocognitive disorders* (see 112.00B1), for children age 3 to attainment of age 18, satisfied by A and B, or A and C:

A. Medical documentation of a clinically significant deviation in normal cognitive development or by significant cognitive decline from a prior level of functioning in *one* or more of the cognitive areas:

1. Complex attention;
2. Executive function;
3. Learning and memory;
4. Language;
5. Perceptual-motor; or
6. Social cognition.

AND

B. Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 112.00F):

1. Understand, remember, or apply information (see 112.00E1).
2. Interact with others (see 112.00E2).
3. Concentrate, persist, or maintain pace (see 112.00E3).
4. Adapt or manage oneself (see 112.00E4).

OR

C. Your mental disorder in this listing category is "serious and persistent;" that is, you have a medically documented history of the existence of the disorder over a period of at least 2 years, and there is evidence of both:

1. Medical treatment, mental health therapy, psychosocial support(s), or a highly structured setting(s) that is ongoing and that diminishes the symptoms and signs of your mental disorder (see 112.00G2b); *and*
2. Marginal adjustment, that is, you have minimal capacity to adapt to changes in your environment or to demands that are not already part of your daily life (see 112.00G2c).

112.03 *Schizophrenia spectrum and other psychotic disorders* (see 112.00B2), for children age 3 to attainment of age 18, satisfied by A and B, or A and C:

A. Medical documentation of *one* or more of the following:

1. Delusions or hallucinations;
2. Disorganized thinking (speech); or
3. Grossly disorganized behavior or catatonia.

AND

B. Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 112.00F):

1. Understand, remember, or apply information (see 112.00E1).
2. Interact with others (see 112.00E2).
3. Concentrate, persist, or maintain pace (see 112.00E3).
4. Adapt or manage oneself (see 112.00E4).

OR

C. Your mental disorder in this listing category is "serious and persistent;" that is, you have a medically documented history of the existence of the disorder over a period of at least 2 years, and there is evidence of both:

1. Medical treatment, mental health therapy, psychosocial support(s), or a highly structured setting(s) that is ongoing and that diminishes the symptoms and signs of your mental disorder (see 112.00G2b); *and*

2. Marginal adjustment, that is, you have minimal capacity to adapt to changes in your environment or to demands that are not already part of your daily life (see 112.00G2c).

112.04 *Depressive, bipolar and related disorders* (see 112.00B3), for children age 3 to attainment of age 18, satisfied by A and B, or A and C:

A. Medical documentation of the requirements of paragraph 1, 2, or 3:

1. Depressive disorder, characterized by *five* or more of the following:

a. Depressed or irritable mood;

b. Diminished interest in almost all activities;

c. Appetite disturbance with change in weight (or a failure to achieve an expected weight gain);

d. Sleep disturbance;

e. Observable psychomotor agitation or retardation;

f. Decreased energy;

g. Feelings of guilt or worthlessness;

h. Difficulty concentrating or thinking; or

i. Thoughts of death or suicide.

2. Bipolar disorder, characterized by *three* or more of the following:

a. Pressured speech;

b. Flight of ideas;

c. Inflated self-esteem;

d. Decreased need for sleep;

e. Distractibility;

f. Involvement in activities that have a high probability of painful consequences that are not recognized; or

g. Increase in goal-directed activity or psychomotor agitation.

3. Disruptive mood dysregulation disorder, beginning prior to age 10, and *all* of the following:

a. Persistent, significant irritability or anger;

b. Frequent, developmentally inconsistent temper outbursts; and

c. Frequent aggressive or destructive behavior.

AND

B. Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 112.00F):

1. Understand, remember, or apply information (see 112.00E1).

2. Interact with others (see 112.00E2).

3. Concentrate, persist, or maintain pace (see 112.00E3).

4. Adapt or manage oneself (see 112.00E4).

OR

C. Your mental disorder in this listing category is "serious and persistent;" that is, you have a medically documented history of the existence of the disorder over a period of at least 2 years, and there is evidence of both:

1. Medical treatment, mental health therapy, psychosocial support(s), or a highly structured setting(s) that is ongoing and that diminishes the symptoms and signs of your mental disorder (see 112.00G2b); *and*

2. Marginal adjustment, that is, you have minimal capacity to adapt to changes in your environment or to demands that are not already part of your daily life (see 112.00G2c).

112.05 *Intellectual disorder* (see 112.00B4), for children age 3 to attainment of age 18, satisfied by A or B:

A. Satisfied by 1 and 2 (see 112.00H):

1. Significantly subaverage general intellectual functioning evident in your cognitive inability to function at a level required to participate in standardized testing of intellectual functioning; and

2. Significant deficits in adaptive functioning currently manifested by your dependence upon others for personal needs (for example, toileting, eating, dressing, or bathing) in excess of age-appropriate dependence.

OR

B. Satisfied by 1 and 2 (see 112.00H):

1. Significantly subaverage general intellectual functioning evidenced by a or b:

a. A full scale (or comparable) IQ score of 70 or below on an individually administered standardized test of general intelligence; or

b. A full scale (or comparable) IQ score of 71–75 accompanied by a verbal or performance IQ score (or comparable part score) of 70 or below on an individually administered standardized test of general intelligence; and

2. Significant deficits in adaptive functioning currently manifested by extreme limitation of one, or marked limitation of two, of the following areas of mental functioning:

a. Understand, remember, or apply information (see 112.00E1); or

b. Interact with others (see 112.00E2); or

c. Concentrate, persist, or maintain pace (see 112.00E3); or

d. Adapt or manage oneself (see 112.00E4).

112.06 *Anxiety and obsessive-compulsive disorders* (see 112.00B5), for children age 3 to attainment of age 18, satisfied by A and B, or A and C:

A. Medical documentation of the requirements of paragraph 1, 2, 3, or 4:

1. Anxiety disorder, characterized by *one* or more of the following:

a. Restlessness;

b. Easily fatigued;

c. Difficulty concentrating;

d. Irritability;

e. Muscle tension; or

f. Sleep disturbance.

2. Panic disorder or agoraphobia, characterized by *one* or both:

a. Panic attacks followed by a persistent concern or worry about additional panic attacks or their consequences; or

b. Disproportionate fear or anxiety about at least two different situations (for example, using public transportation, being in a crowd, being in a line, being outside of your home, being in open spaces).

3. Obsessive-compulsive disorder, characterized by *one* or both:

a. Involuntary, time-consuming preoccupation with intrusive, unwanted thoughts; or;

b. Repetitive behaviors that appear aimed at reducing anxiety.

4. Excessive fear or anxiety concerning separation from those to whom you are attached.

AND

B. Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 112.00F):

1. Understand, remember, or apply information (see 112.00E1).

2. Interact with others (see 112.00E2).

3. Concentrate, persist, or maintain pace (see 112.00E3).

4. Adapt or manage oneself (see 112.00E4).

OR

C. Your mental disorder in this listing category is "serious and persistent;" that is, you have a medically documented history of the existence of the disorder over a period of at least 2 years, and there is evidence of both:

1. Medical treatment, mental health therapy, psychosocial support(s), or a highly structured setting(s) that is ongoing and that diminishes the symptoms and signs of your mental disorder (see 112.00G2b); *and*

2. Marginal adjustment, that is, you have minimal capacity to adapt to changes in your environment or to demands that are not already part of your daily life (see 112.00G2c).

112.07 *Somatic symptom and related disorders* (see 112.00B6), for children age 3 to attainment of age 18, satisfied by A and B:

A. Medical documentation of *one* or both of the following:

1. Symptoms of altered voluntary motor or sensory function that are not better explained by another medical or mental disorder; or

2. One or more somatic symptoms that are distressing, with excessive thoughts, feelings, or behaviors related to the symptoms.

AND

B. Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 112.00F):

1. Understand, remember, or apply information (see 112.00E1).

2. Interact with others (see 112.00E2).

3. Concentrate, persist, or maintain pace (see 112.00E3).

4. Adapt or manage oneself (see 112.00E4).

112.08 *Personality and impulse-control disorders* (see 112.00B7), for children age 3 to attainment of age 18, satisfied by A and B:

A. Medical documentation of a pervasive pattern of *one* or more of the following:

1. Distrust and suspiciousness of others;

2. Detachment from social relationships;

3. Disregard for and violation of the rights of others;

4. Instability of interpersonal relationships;

5. Excessive emotionality and attention seeking;

6. Feelings of inadequacy;

7. Excessive need to be taken care of;

8. Preoccupation with perfectionism and orderliness; or

9. Recurrent, impulsive, aggressive behavioral outbursts.

AND

B. Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 112.00F):

1. Understand, remember, or apply information (see 112.00E1).
2. Interact with others (see 112.00E2).
3. Concentrate, persist, or maintain pace (see 112.00E3).
4. Adapt or manage oneself (see 112.00E4).

112.09 [Reserved]

112.10 *Autism spectrum disorder* (see 112.00B8), for children age 3 to attainment of age 18), satisfied by A and B:

A. Medical documentation of *both* of the following:

1. Qualitative deficits in verbal communication, nonverbal communication, and social interaction; and
2. Significantly restricted, repetitive patterns of behavior, interests, or activities.

AND

B. Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 112.00F):

1. Understand, remember, or apply information (see 112.00E1).
2. Interact with others (see 112.00E2).
3. Concentrate, persist, or maintain pace (see 112.00E3).
4. Adapt or manage oneself (see 112.00E4).

112.11 *Neurodevelopmental disorders* (see 112.00B9), for children age 3 to attainment of age 18, satisfied by A and B:

A. Medical documentation of the requirements of paragraph 1, 2, or 3:

1. *One* or both of the following:
   a. Frequent distractibility, difficulty sustaining attention, and difficulty organizing tasks; or
   b. Hyperactive and impulsive behavior (for example, difficulty remaining seated, talking excessively, difficulty waiting, appearing restless, or behaving as if being "driven by a motor").
2. Significant difficulties learning and using academic skills; or
3. Recurrent motor movement or vocalization.

AND

B. Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 112.00F):

1. Understand, remember, or apply information (see 112.00E1).
2. Interact with others (see 112.00E2).
3. Concentrate, persist, or maintain pace (see 112.00E3).
4. Adapt or manage oneself (see 112.00E4).

112.12 [Reserved]

112.13 *Eating disorders* (see 112.00B10), for children age 3 to attainment of age 18, satisfied by A and B:

A. Medical documentation of a persistent alteration in eating or eating-related behavior that results in a change in consumption or absorption of food and that significantly impairs physical or psychological health.

AND

B. Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 112.00F):

1. Understand, remember, or apply information (see 112.00E1).
2. Interact with others (see 112.00E2).
3. Concentrate, persist, or maintain pace (see 112.00E3).
4. Adapt or manage oneself (see 112.00E4).

112.14 *Developmental disorders in infants and toddlers* (see 112.00B11, 112.00I), satisfied by A and B:

A. Medical documentation of *one* or both of the following:

1. A delay or deficit in the development of age-appropriate skills; or
2. A loss of previously acquired skills.

AND

B. Extreme limitation of one, or marked limitation of two, of the following developmental abilities (see 112.00F):

1. Plan and control motor movement (see 112.00I4b(i)).
2. Learn and remember (see 112.00I4b(ii)).
3. Interact with others (see 112.00I4b(iii)).
4. Regulate physiological functions, attention, emotion, and behavior (see 112.00I4b(iv)).

112.15 *Trauma- and stressor-related disorders* (see 112.00B11), for children age 3 to attainment of age 18, satisfied by A and B, or A and C:

A. Medical documentation of the requirements of paragraph 1 or 2:

1. Posttraumatic stress disorder, characterized by *all* of the following:
   a. Exposure to actual or threatened death, serious injury, or violence;
   b. Subsequent involuntary re-experiencing of the traumatic event (for example, intrusive memories, dreams, or flashbacks);
   c. Avoidance of external reminders of the event;
   d. Disturbance in mood and behavior (for example, developmental regression, socially withdrawn behavior); and
   e. Increases in arousal and reactivity (for example, exaggerated startle response, sleep disturbance).
2. Reactive attachment disorder, characterized by *two* or all of the following:
   a. Rarely seeks comfort when distressed;
   b. Rarely responds to comfort when distressed; or
   c. Episodes of unexplained emotional distress.

AND

B. Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 112.00F):

1. Understand, remember, or apply information (see 112.00E1).
2. Interact with others (see 112.00E2).
3. Concentrate, persist, or maintain pace (see 112.00E3).
4. Adapt or manage oneself (see 112.00E4).

OR

C. Your mental disorder in this listing category is "serious and persistent;" that is, you have a medically documented history of the existence of the disorder over a period of at least 2 years, and there is evidence of both:

1. Medical treatment, mental health therapy, psychosocial support(s), or a highly structured setting(s) that is ongoing and that diminishes the symptoms and signs of your mental disorder (see 112.00G2b); *and*
2. Marginal adjustment, that is, you have minimal capacity to adapt to changes in your environment or to demands that are not already part of your daily life (see 112.00G2c).

* * * * *

114.00 Immune System Disorders

* * * * *

D. * * *

6. * * *

e\. * * *

(ii) Listing-level severity is shown in 114.09B and 114.09C2 by inflammatory arthritis that involves various combinations of complications of one or more major peripheral joints or involves other joints, such as inflammation or deformity, extra-articular features, repeated manifestations, and constitutional symptoms and signs. * * *

* * * * *

114.02 *Systemic lupus erythematosus,* as described in 114.00D1. With involvement of two or more organs/body systems, and with:

A. One of the organs/body systems involved to at least a moderate level of severity;

AND

B. At least two of the constitutional symptoms and signs (severe fatigue, fever, malaise, or involuntary weight loss).

114.03 *Systemic vasculitis,* as described in 114.00D2. With involvement of two or more organs/body systems, and with:

A. One of the organs/body systems involved to at least a moderate level of severity;

AND

B. At least two of the constitutional symptoms and signs (severe fatigue, fever, malaise, or involuntary weight loss).

* * * * *

114.06 *Undifferentiated and mixed connective tissue disease,* as described in 114.00D5. With involvement of two or more organs/body systems, and with:

A. One of the organs/body systems involved to at least a moderate level of severity;

AND

B. At least two of the constitutional symptoms and signs (severe fatigue, fever, malaise, or involuntary weight loss).

* * * * *

114.10 *Sjögren's syndrome,* as described in 114.00D7. With involvement of two or more organs/body systems, and with:

A. One of the organs/body systems involved to at least a moderate level of severity;

AND

B. At least two of the constitutional symptoms and signs (severe fatigue, fever, malaise, or involuntary weight loss).

* * * * *

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart I—Determining Disability and Blindness

■ 4. The authority citation for subpart I of part 416 continues to read as follows:

Authority: Secs. 221(m), 702(a)(5), 1611, 1614, 1619, 1631(a), (c), (d)(1), and (p), and 1633 of the Social Security Act (42 U.S.C. 421(m), 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), (d)(1), and (p), and 1383b); secs. 4(c) and 5, 6(c)–(e), 14(a), and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, and 1382h note).

■ 5. Amend § 416.920a by revising paragraphs (c)(3) and (4) and (d)(1) to read as follows:

§ 416.920a Evaluation of mental impairments.

* * * * *

(c) * * *

(3) We have identified four broad functional areas in which we will rate the degree of your functional limitation: Understand, remember, or apply information; interact with others; concentrate, persist, or maintain pace; and adapt or manage oneself. See 12.00E of the Listing of Impairments in appendix 1 to subpart P of part 404 of this chapter.

(4) When we rate your degree of limitation in these areas (understand, remember, or apply information; interact with others; concentrate, persist, or maintain pace; and adapt or manage oneself), we will use the following five-point scale: None, mild, moderate, marked, and extreme. The last point on the scale represents a degree of limitation that is incompatible with the ability to do any gainful activity.

(d) * * *

(1) If we rate the degrees of your limitation as "none" or "mild," we will generally conclude that your impairment(s) is not severe, unless the evidence otherwise indicates that there is more than a minimal limitation in your ability to do basic work activities (see § 416.921).

* * * * *

■ 6. Amend § 416.934 by revising the section heading and paragraph (h) to read as follows:

§ 416.934 Impairments that may warrant a finding of presumptive disability or presumptive blindness.

* * * * *

(h) Allegation of intellectual disability or another neurodevelopmental impairment (for example, autism spectrum disorder) with complete inability to independently perform basic self-care activities (such as toileting, eating, dressing, or bathing) made by another person who files on behalf of a claimant who is at least 4 years old.

* * * * *

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* **Editorial Note:** Proclamation number 9494 will not be used because a proclamation numbered 9494 appeared on the Public Inspection List on Friday September 16, 2016, but was withdrawn by the issuing agency before publication in the **Federal Register**.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

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